JUSTICE FOR ALL: A REVIEW OF THE OPERATIONS OF THE DISTRICT OF COLUMBIA SUPERIOR COURT

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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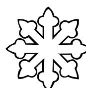

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JUSTICE FOR ALL: A REVIEW OF THE OPERATIONS OF THE DISTRICT OF COLUMBIA SUPERIOR COURT

FRIDAY, APRIL 23, 2004

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in Room 2154, Rayburn House Office Building, Hon. Tom Davis (chairman of the committee) presiding.

Present: Representatives Davis, Tiberi and Norton.

Staff present: David Marin, deputy staff director/director of communications; Keith Ausbrook, chief counsel; Howie Denis, counsel; Robert Borden, counsel/parliamentarian; Drew Crockett, deputy director of communications; John Cuaderes and Victoria Proctor, senior professional staff members; Teresa Austin, chief clerk; Brien Beattie, deputy clerk; Rosalind Parker, minority counsel; Earley Green, minority chief clerk; Jean Gosa, minority assistant clerk; and Cecelia Morton, minority office manager.

Chairman TOM DAVIS. Good morning. A quorum being present, the Committee on Government Reform will come to order and we have the most important Members here anyway. I would like to welcome everybody to our oversight hearing on the District of Columbia Superior Court. In Federalist No. 22, Alexander Hamilton noted that the crowning defect of the Articles of Confederation was the lack of a judiciary. Today we'll look at the management, the administration of that critical element of our political system in the District of Columbia. We'll focus particularly on the probate division and the family court which play an important role in protecting the most vulnerable among us, the elderly, the infirm and the children.

Before we begin, I want to take a moment to acknowledge the passing this week of Mary McGrory, the long-time Washington Post and Washington Star columnist. I do so today because among the many highlights in her distinguished career, Mary was a strong advocate for children in the District of Columbia, including her support for the creation of a D.C. family court. Using her customary mix of charm and tenacity and her space on the editorial page of one of the Nation's largest newspapers, Mary became an irresistible force for better legal treatment for the most defenseless members of our society. Her contribution to this city and this region will be sorely missed.

This hearing will focus on three main areas. The first is general administration of the D.C. Superior Court, including performance goals and measures, fiscal management and the integrated justice information system. The second is the probate division, particularly the possible neglect or abuse by court-appointed guardians and conservators. And the final area is how the establishment of the family court has improved child welfare in the District of Columbia. Regarding the probate division, this committee is concerned that court-appointed guardians and conservators are taking advantage of or neglecting their clients. We have received a report that a conservators' failure to make mortgage payments on the ward's house resulted in a foreclosure.

The same conservator failed to pay real estate taxes, failed to make annual financial filings and failed to prevent the health care provider from taking assets of the ward. This report comes on the heels of the Washington Post series that detailed instances of mistreatment of elderly, mentally ill and indigent individuals by guardians and conservators appointed in the District of Columbia, and suggested that the court system exercised little control or discipline over those it appoints to protect the needy. I'd ask unanimous consent that these articles from the Post be included in the record at this point. Without objection. So ordered. The committee needs to know how and whether the court addresses these problems.

[The information referred to follows:]

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LENGTH: 3463 words

HEADLINE: Under Court, Vulnerable Became Victims;
Attorneys Who Ignored Clients or Misspent Funds Rarely Sanctioned

BYLINE: Carol D. Leonnig, Lena H. Sun and Sarah Cohen, Washington Post Staff Writers

BODY:

First of two articles

Virginia Hinton was a Radcliffe graduate, world traveler and the former wife of a history scholar. But in her most vulnerable years, her life came undone. She suffered first from alcoholism, then mild dementia. At 75, she owned a house in Rockville but ended up living on street corners and sleeping at a shelter.

Into this downward spiral came a guardian: In 1996, D.C. Superior Court appointed attorney Rozan Cater to oversee Hinton's care, safeguard her finances and get her off the streets.

But over the next five years, thousands of dollars disappeared from Hinton's bank account, court records show. Cater ignored the tax bills on Hinton's home so long that the property was confiscated. Hinton remained homeless, spending her days on sidewalks and in abandoned buildings, where she said she was beaten.

Hinton "prefers to reside in city shelters," Cater wrote to court officials, who did nothing.

As a neglected ward of D.C. Superior Court, Virginia Hinton was not alone.

The court's probate division, which is mandated to care for more than 2,000 elderly, mentally ill and mentally retarded residents, has repeatedly allowed its charges to be forgotten and victimized, an investigation by The Washington Post has found. Chaotic record-keeping, lax oversight and low expectations in this division of the court have created a culture in which guardians are rarely held accountable. They are often handed new work even when they have ignored their charges or let them languish in unsafe conditions.

Rozan Cater ignored many of her clients and improperly spent or wasted nearly $ 250,000 from their accounts, according to court investigators' documents. Cater, who said she did not take any client funds, was one of the court's busiest lawyers. From 1992 until 2000, judges appointed her 70 times to represent D.C. residents who could not fend for themselves. During that period, she collected $ 118,000 in fees from her appointments, court documents show.

The Post's review of more than 10 years of case dockets and hundreds of court files, as well as interviews with more than 200 judges, attorneys, and clients and their families, found hundreds of cases where court-appointed protectors violated court requirements. Since 1995, one of five guardians has gone years without reporting to the court. Some have not visited their ailing charges. In more than two dozen cases, guardians or **conservators** have taken or mishandled money.

Neglectful caretakers are rarely disciplined, D.C. bar records show. Even when they have been caught stealing or cheating clients, attorneys can go as long as nine years before they are punished.

In about 240 cases since 1992, judges have reappointed lawyers who had been sanctioned or otherwise brought to the court's notice for serious problems, such as mismanaged money, according to a review of court records. Many of these lawyers were eventually removed from at least one subsequent case as well.

Rozan Cater was taken off a court list of eligible probate attorneys in 1999 for neglecting 84-year-old Rosebud White and ignoring a judge's order to explain herself. A few months later, then-presiding Judge Cheryl M. Long reinstated Cater to the case and the list. In fact, more than half of Cater's appointments came after the court was warned that tens of thousands of dollars was missing from the account of one of Cater's clients.

Gloria Johnson, a longtime probate lawyer, was taken off the list of eligible attorneys in November 1998 when she failed to appear at a hearing. But two weeks later, a judge bypassed the list and gave her a new case. Johnson was reinstated to the list after she apologized. She was taken off the list again in January for a similar offense. In February, a judge approved two new assignments.

Attorney Jacqueline Moore was removed from a case in 1996 after she allowed her client's only asset -- her $ 158,000 house -- to fall into such disrepair that its value dropped to $ 90,000. Yet judges appointed Moore six more times to be the protector or advocate for new clients.

The current and previous heads of Superior Court, Judge Rufus G. King III and Senior Judge Eugene Hamilton, said in interviews that they would not knowingly tolerate court-appointed attorneys who fail their clients.

King said some judges may give new appointments to lawyers because they are not aware of previous problems.

He said that in some instances, he thought it was appropriate to reappoint a lawyer with past problems -- if mistakes have been corrected, for example. And a lawyer removed for poorly managing a client's money might be capable of overseeing another's health care, he said.

Hamilton said he would hesitate to ban lawyers from future appointments simply because they've been removed from a case.

"You have to be careful about barring someone from cases," said Hamilton, who oversaw the probate

division from 1991 until 1993. "It may be the person's only source of practice."

King added that the court improved its training and strengthened the qualifications required of probate attorneys last year. He pointed out that a court rule requiring **conservators** to be insured by bonding companies has allowed repayment in most cases where money was mishandled or stolen.

"Certainly if there is a finding that money has been lost through the fault of the lawyer, there shouldn't be a reappointment," he said. "There have been some problems with the court-appointed lawyers who have mishandled appointments. . . . Some cases slipped through, and they should not have."

Over the past decade, the court has had responsibility for an estimated 4,000 city residents. It operates out of a handful of courtrooms at D.C. Superior Court under Judge Kaye K. Christian, the no-nonsense judge who closed District schools in the 1990s for fire code violations and in 2000 ordered the city's child welfare director arrested for failing to appear in court. She works with another full-time judge, Jose Lopez, and a few senior judges called in periodically to help manage cases. Together, they oversee the estates of the dead and the care of people unable to manage their affairs.

The judges assign a guardian to look after a person's well-being or a **conservator** to manage finances. In roughly half the cases, a family member is appointed. In other cases, it is usually an attorney from a court list, although judges can name whomever they want.

The list has fallen from about 240 to 160 since the requirement was instituted last year that lawyers receive at least six hours of training and provide information on any ethical or other violations.

Guardians and **conservators** can have vast powers, from choosing housing and medical care to investing money and paying bills. Lawyers receive $ 80 an hour, paid from a public fund when clients are indigent. Clients with assets pay at the attorney's hourly rate, often more than $ 200 an hour, once a judge approves the fees.

District law and court policies recognize the critical responsibilities of guardians and **conservators** and the potential for abuse or neglect. The attorneys are required by law to file a written report to the court regularly -- twice a year for guardians, annually for **conservators** -- on the status of clients and their money.

When those reports don't come in, court officials are supposed to send a delinquency notice. If the guardians don't correct the problem, court officials are required to alert judges, who are supposed to summon the guardians to a hearing to explain the lapses.

In half of 783 long-term guardianships initiated between 1995 and 2000, caretakers filed no reports for 18 months or more, missing their deadlines by at least a year, according to The Post's review of records. In 170 of those cases, no reports were filed within three years. In 127, or about one-sixth of the cases, the guardians never reported back after they were appointed.

In the case of Clarence Culbertson, who is mentally ill, the court received no reports for five years, and with the exception of one delinquency notice, did nothing about it.

Culbertson was diagnosed with paranoid schizophrenia in his early twenties, and he gradually became unable to care for himself after his parents died. He ended up living on the streets.

Life improved when the court appointed a lawyer to pay his bills and manage his affairs. When that attorney moved out of town in 1995, Culbertson's care was turned over to D.C. attorney Jacqueline

Moore, who later placed Culbertson in a group home on Ninth Street NW. The home was trash-strewn, live wires dangled from the ceilings, and residents accused the landlady of stealing their food, court documents showed. The door was chained to keep residents inside.

Culbertson and his housemates would climb out a second-floor window and shimmy down a neighbor's porch to escape. In February 2000, the neighbor called the city, and the fire department condemned the group home. That June, judges finally found out what had happened to Culbertson after a disabilities advocacy group demanded an emergency court investigation.

The investigator, attorney Robert A. Gazzola, recommended that Moore be fired. But Judge Long disagreed, finding "no negligence or misconduct of any kind" by Moore. Long, then presiding probate judge, blamed "the unsubstantiated complaints of the mentally ill [Culbertson]" for "unnecessarily" subjecting Moore to an investigation.

During an August 2000 hearing, Moore said she could not report on Culbertson's status for years because her computer had crashed and she had needed surgery.

"There have been a string of events," Moore explained to the judge.

"I understand," replied Long, according to the hearing transcript. "I understand."

Moore, 62, did not return telephone calls and did not respond to a letter sent to her office seeking comment. Long would not comment on this and other cases.

Moore later resigned, and Culbertson, 48, is now in the care of a new protector. Moore continued to receive appointments, often at taxpayer expense.

Court officials in the District have long been aware of flaws in their monitoring, which relies on clerks searching files by hand.

"We'd like to catch everybody who is overdue, but that hasn't happened," Judge King said. He predicted that a new computer system, scheduled for fall 2004, will help track delinquent attorneys.

Register of Wills Constance G. Starks, the probate court's administrator, said in a written statement that her staff was cut in the 1990s but has nevertheless improved its monitoring of cases. In 70 percent of cases, she said, guardians correct problems before they are called to appear before a judge, compared with 40 percent in 1995. She attributes the improvement to a better system of notifying guardians when they are behind in filing court reports.

The small group of professionals who earn their living in probate court know each other well. They share business and recommend one another for court appointments. The lawyers say they make a point to befriend the clerks. The judges say they often appoint attorneys they trust. It's not easy to break into their circle.

"If the judge doesn't know you or doesn't like you, they don't put you on the case," said one attorney who has received two appointments in 10 years. He asked to remain anonymous so as not to jeopardize future appointments.

The tight circle embraced John Fauntleroy Jr., a probate attorney and son of a 1970s-era Superior Court judge, the late John Douglass Fauntleroy.

By the mid-1990s, John Fauntleroy Jr. had been given a steady stream of cases. Court records show he often failed to visit his clients, pay their bills, report on their condition to the court and show up at hearings.

Over a six-year period, Fauntleroy was offered repeated extensions when he missed deadlines. He failed to file more than 35 reports with the court.

Fauntleroy let deadlines pass at least seven times in the case of James Lipford, a 94-year-old nursing home resident. Over several years, judges granted fees for $ 13,700, more than half of Lipford's $ 22,000 in cash assets. Despite his overdue reports, Judge Long approved Fauntleroy's fees, which court records show is rare. The court didn't learn for a year and a half that Lipford had died.

In October 1996, citing mistakes in the Lipford case, Long barred Fauntleroy from future appointments by removing him from the court's list of eligible attorneys. But within seven months, Long gave him two additional cases: supervising the estate of a 35-year-old man and representing a 65-year-old woman in a guardianship proceeding.

At the time, other clients of Fauntleroy's were suffering. Geraldine Harrison, 82, a retired teacher and former civic association president, was without electricity and telephone service because Fauntleroy didn't pay the bills, court records show. She was sleeping on a living room couch because he hadn't paid a contractor to fix a leaking roof.

"Doesn't anyone supervise this man?" Harrison wrote in a 1997 letter to another attorney in the case. "This is outrageous. . . . Where is all of my money?"

Later, she was forced to leave a nursing home because Fauntleroy failed to pay the bill, court records show. Harrison's relatives realized that Fauntleroy had applied for a large second mortgage on Harrison's home without notifying the family. A court investigator later found that he had taken $ 11,550 from Harrison's account.

In fall 1998, the court was told that Fauntleroy had taken $ 12,500 without approval from another client's account, that of 50-year-old Kathleen Suggs. Judges Christian and Long ordered him to appear before them to answer questions about several cases. He failed to show up so many times that Christian issued three bench warrants for him.

Fauntleroy and his bonding company have been ordered to repay $ 115,124 to seven clients for money he took or mishandled, according to court records. In September 2001, he agreed to be disbarred.

"I was overwhelmed by a tremendous amount of work," Fauntleroy, 47, said in a telephone interview. "I only had sporadic and temporary clerical help. I had enough work for several lawyers."

Antoinette Jackson-Campbell, the eldest daughter of Geraldine Harrison, blamed the court for not demanding that Fauntleroy do his job.

"His father is a somebody, so they let him do as he pleased," she said. "My mother was somebody special. And she deserved better."

By the mid-1990s, Rozan Cater was among the small cadre of lawyers whose income depended heavily on probate appointments. Cater grew up in the Bloomingdale neighborhood of the District, the daughter of a Methodist minister. She began practicing as a criminal defense lawyer and then moved to probate cases. Within a few years, complaints began to surface, court records show.

In 1996, the great-grandmother of a boy whose finances had been put in Cater's hands warned court clerks that the child was going to be expelled from his Catholic school because Cater hadn't paid his tuition.

That same year, the daughter of an 80-year-old woman complained that her mother, under Cater's care and suffering from dementia, was in jeopardy living alone in an apartment.

During the same period, Cater was appointed to protect Virginia Hinton, the homeless woman whose Rockville home had been confiscated. Hinton's brother, Page W.T. Stodder, had asked to be his sister's guardian after police brought her to St. Elizabeths Hospital. Judge Christian determined that it should be a local attorney.

Shortly after her appointment, Cater told the court that she had hired a social worker to find Hinton a place to live. When that didn't succeed, Cater didn't hire another. Then, over the next 30 months, Cater filed no updates to the court on Hinton's condition, and no court officials followed up with her.

"This would never have happened if they had appointed me or the court had been competently checking up on Ms. Cater," Stodder said in a telephone interview.

Christian would not comment on this or other cases.

Cater never found Hinton a home. But she saw her regularly, when Hinton would stop by Cater's Indiana Avenue NW office to pick up spending money.

"Virginia Hinton would come to my office so urine-soaked that I had to throw out the furniture after she sat in it," Cater, 49, said in an interview in December. Hinton refused to take her medication, Cater said. "We took her to numerous homes we thought were suitable. . . . She refused all of them. Some kind of allergy."

It wasn't until 2001 -- five years after Cater's appointment -- thatJudge Lopez appointed a new guardian and **conservator** for Hinton. He allowed Cater to withdraw from the case rather than remove her. Lopez said in an interview that he prefers to allow attorneys to withdraw because removing them can harm their reputations.

Within weeks of Cater's departure, the new guardian, Ken Loewinger, began to pay the back taxes on Hinton's house to retrieve it from Montgomery County and found Hinton a place to live in Friendship Terrace, a retirement home in Northwest Washington.

"You've got an elderly, mentally disabled woman living on the street who can't take care of herself or her affairs . . . and Cater failed to do her basic job to protect her," Loewinger said.

In an interview at her top-floor apartment with a broad vista of Washington, Hinton said that Cater always seemed busy. "Rozan had too many cases to handle," she said.

Hinton said she was relieved to be out of shelters and in a safe, clean building. She was calm and alert and clearly recalled being assaulted in an empty D.C. building and being treated at Providence Hospital.

In Hinton's case and several others handled by Cater in the mid- to late 1990s, court investigators found that money was missing. In 1998, court auditors learned that $ 42,000 had disappeared from the accounts of Charlie Mae Morton, an 89-year-old woman who had been in Cater's care.

Cater told the court that her secretary, Lena Summers, had forged Cater's signature on 34 checks from Morton's account and also had taken $ 5,150 from Hinton's accounts.

Cater had represented Summers on a theft charge, then hired her in 1993 after her release from jail. She said she hasn't seen Summers since she disappeared in fall 1996. Summers could not be located to comment.

In six cases, court investigators found that Cater had written over $ 45,000 in checks to a law school friend, Sheila Latham, who has since been indicted on charges of embezzling nearly $ 73,000 in a separate case in Texas. Cater said Latham helped her catch up on her work.

Cater said in an interview that she did not steal funds from any clients.

"Every penny of these people's money that I've ever had, I've tried to account for to the best of my abilities," Cater said. "I have not tried to steal anything from anybody, in spite of the fact that I've not been paid in many of these cases."

Neither Latham, who lives in Texas, nor her attorney responded to phone messages or letters requesting comment.

In 2002, the court for the first time referred a Cater case to federal prosecutors. A court-appointed investigator had discovered that Cater had withdrawn $ 17,000 from the bank account of Elizabeth Wharton, a nursing home resident who had worked as a maid and elevator operator. The U.S. attorney's office is investigating the case.

Cater attributed many of her problems to the demands of caring for her ailing parents. She said the final responsibility was not hers.

"My priority was my family, and it will be. And I don't care," she said. "I think it's more a criticism of the court, quite frankly. If I'm remiss in my duties, it seems to me that the court should have pulled me on the carpet for that right away. . . . Why haven't they removed me? Why haven't they done any of those things that are put in place to safeguard and to check?"

Cater has been removed from many cases and faces suspension of her law license.

As of last week, she remained on record as the person responsible for the money and care of 77-year-old Charles Harris, who suffers from mental illness.

In 2000, city officials suggested that the court consider removing Cater from the case. They complained Harris was about to be evicted from a group home because Cater failed to pay his room and board, records show. A District caseworker said in an interview last week that Harris was forced to leave the group home and now rents a room in Northwest Washington. The caseworker said she has not heard from Cater in many months.

Staff researcher Bobbye Pratt contributed to this report.

For video interviews, court documents, an online discussion and more, go to www.washingtonpost.com/guardian.

TOMORROW: High costs and hasty decisions in guardianship cases.

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HEADLINE: Rights and Funds Can Evaporate Quickly;
Attorneys' Powers Thwarted D.C. Residents Trying to Remain Independent

BYLINE: Sarah Cohen, Carol D. Leonnig and April Witt, **Washington Post** Staff Writers

BODY:

Second of two articles

Ella Nelson, 96, is a canny investor who amassed a $ 4 million fortune in the stock market and then hired one of the District's most influential estate lawyers to help her keep control of it. Now Nelson says that the lawyer, Robert A. Gazzola, took control instead.

When Nelson fired him last year, Gazzola did what she most dreaded: He asked a D.C. Superior Court judge to declare her mentally incapacitated and name him as permanent **guardian** and trustee. If the court agreed, Gazzola could choose where and how she lived and charge for each hour he spent on her care. After her death, he would manage her millions and continue billing her estate.

"He wants to get all my money," Nelson later told the court. "I'll tell you what his motto is: 'There's lots of money there. There's lots of money there.' "

Gazzola said that Nelson asked him to manage her money after her death and that he had acted ethically.

"I was completely aboveboard all the way through," he said.

She fought back, hiring a new lawyer, writing a new will and gathering evidence that she could make her own decisions. But parts of the case are still unresolved after three years, six lawyers and $ 185,000 in legal bills for Nelson.

"Once she got into the court system, it just didn't let go," said John Noble, the lawyer Nelson hired to help fight Gazzola. "There was no getting out of it."

Most of those who end up in the District's probate court need a protector. They are often desperately ill or unconscious. Some are mentally ill. Many are poor and alone.

But others, including Nelson, have been pulled involuntarily into a court system that can run roughshod over those it is supposed to protect, an investigation by The **Washington Post** has found.

It is a system that in practice often serves lawyers over clients. Even as the court's lax oversight allows **guardians** to neglect their responsibilities, it also permits some lawyers to take unnecessary control of people's lives.

A detailed review by The Post of 130 cases filed last year shows that judges routinely bypassed a D.C. law meant to protect individual rights in guardianship cases. In three of four instances, they appointed **guardians** for elderly and disabled people who were not present at the hearings where their fate was decided.

Those hearings often lasted less than 10 minutes. Judges sometimes overruled people's wishes about who should care for them. In fewer than one of four cases was an independent expert appointed to evaluate whether a **guardian** was necessary, court records show.

The 1989 city law was designed to limit unneeded court intrusion in people's lives. But the number of **guardians** appointed each year in the District has nevertheless grown by nearly half -- to 249 in 2002 -- even as the size of the city's population over age 65 has shrunk. Petitions to place elderly or troubled residents in permanent guardianships are almost always granted; that is the outcome in 83 percent of cases, according to court records.

"You're taking away the most fundamental rights someone has," said Robert L. Aldridge, an Idaho lawyer who recently testified at a congressional hearing on guardianships. The process, he said, "should be done reluctantly, slowly and carefully . . . not in a slam-bang procedure."

The people and institutions who go to court asking that a **guardian** be named often have a financial incentive: lawyers seeking billable hours, relatives eyeing an inheritance, nursing homes pushing to get their bills paid, hospitals eager to discharge patients when the insurance companies stop paying.

Anyone who claims an interest -- even a stranger -- can file a petition asking to have someone declared incapacitated and made a legal ward. If the subject of the hearing has money, the protector can earn substantial fees.

Flo Lewellen, her relatives and social worker were shocked in 1998 when a lawyer she had never met stepped into her life. The lawyer, Julia Soininen, filed a petition with the court to have Lewellen, then 90, made her ward.

Soininen had learned about Lewellen from an accountant the woman had fired, according to court records and interviews. In the petition, Soininen initially noted that she had no relationship to Lewellen, then scratched that out and wrote "concerned party -- friend of subject's former accountant."

Lewellen, who had been an editor at the U.S. International Trade Commission for 35 years and had lived alone, had nearly $ 1 million in assets. With her relatives, she hired lawyers to oppose Soininen and consulted a psychiatrist, who told the court that Lewellen's judgment was intact.

Soininen eventually agreed to withdraw her petition. Lewellen has since died, but her family has paid $ 5,000 to $ 6,000 in legal bills, said Michael Curtin, attorney for the family.

Soininen said she believed that she was "doing the right thing" at the time. She had taken the word of Lewellen's former accountant that Lewellen's health was deteriorating. "If someone came to me today" with the same information, Soininen said in an interview, "I would have said, 'You need to give me some more proof.' "

Even people who had evidence that they could manage without a **guardian** had to fight to remain independent, court records show. Those who avoided unwanted guardianships had the resources to hire an independent lawyer or doctor, or family members and friends who strenuously protested the move. Even then it was a battle.

LeRoy Coleman, 85, had given his daughter, Bea Carey, power of attorney should he become ill. After he suffered a stroke, she cared for him for eight years in her Northwest Washington home.

Last year, when he was taken to Howard University Hospital for digestive problems and pneumonia, officials there sought a **guardian** for him. He was being fed through a tube and his daughter wanted to continue the organic diet she had been giving him at home. An anonymous caller had told a hospital social worker that Carey put large doses of cayenne pepper in her father's food, court records show. That prompted the hospital to go to court to ask that an outsider be given legal authority to make emergency medical decisions for Coleman.

Howard University Hospital would not comment, and Carey did not return phone calls. Coleman has since died.

Carey and her father prevailed in court after an independent expert assigned by the judge said that Coleman's diet had not hurt him and that there was no reason to interfere with Carey's care.

Lawyers who work within the District's guardianship system defend it.

"I'm not naive about the fact that there are attorneys out there who shouldn't be practicing this kind of law and don't do a good job," said Christopher G. Hoge, a veteran probate lawyer. "But I think a lot more people are diligent."

Hoge said representing such vulnerable people is complicated, time-consuming work. And, he said, by the time

people are the subject of a guardianship proceeding, they usually are in desperate need of the court's protection.

No matter the outcome, the elderly and disabled whose fates are in question can pay a high price. If they have assets, they can be billed by lawyers on both sides of the argument at their regular hourly rate, often $ 200 an hour or more. If the subject of the proceedings is poor, the fees come from a public fund, which pays lawyers $ 80 an hour.

"The very rich and the very poor do okay," Chief Judge Rufus G. King III said. "It's the people in the middle who suffer the biggest burden by this and all other forms of the law."

Mary Alice Dines, a 72-year-old federal retiree, faced more than $ 30,000 in legal bills -- roughly half her savings -- after a stroke landed her in probate court in 1998. Dines had earlier authorized her longtime companion, Nancy Ransom, to make health care decisions for her if she became ill. But that designation had expired. And when Sibley Memorial Hospital wanted to release her to a rehabilitation center, none would take her without a **guardian.**

Ransom, 81, asked to be appointed Dines's **guardian** and conservator. But Judge Cheryl M. Long rejected her, citing bitter disputes between Ransom and the hospital and the need for a **guardian** to work effectively with health care providers. Long assigned a lawyer instead.

The lawyer's fees over two years came to more than $ 14,000. Dines paid $ 11,000 to an expert and another lawyer appointed by the court. And an investigator collected $ 5,800.

By the beginning of 2000, Dines had partially recovered, and Ransom went to court to ask that the lawyer be removed. Long granted the request but did not release Dines from court oversight. The judge appointed a neighbor of Dines's, a lawyer who agreed to serve for free, as conservator and **guardian.**

In approving most of the fees, Long said that because Dines was living in a nice home with Ransom and had a pension, she "will not suffer any genuine financial jeopardy regardless of the fees that are awarded."

Long would not comment on this or other cases. Judges are barred by ethics rules from discussing individual cases.

Like many states, the District reformed its guardianship laws more than a decade ago. Advocates persuaded the city to impose strict standards to ensure that a guardianship was necessary, requiring proof that the elderly or ill could not make decisions and would suffer harm if no one was appointed to care for them. The law mandates that court-appointed lawyers "zealously" advocate for their clients' wishes, and it advises judges to avoid permanent, unlimited guardianships whenever possible.

Other factors work against the intent of the law, legal experts say. Medicare regulations prohibit hospitals from discharging frail patients until a safe place is found for them to go. But nursing homes are reluctant to accept them without guarantees that bills will be paid. Both the hospitals and nursing homes would benefit if someone controlled a patient's money and care.

Landing in a hospital or nursing home is one of the surest routes to a guardianship. That was true for nearly two-thirds of people who became the subject of a guardianship proceeding in the first six months of last year.

One D.C. lawyer, Gloria Johnson, files so many guardianship cases, mainly on behalf of nursing homes, that her cases account for about 15 percent of the court's new caseload. During the first half of last year, she filed 22 cases.

Johnson said she needed to care for a sick relative and would not comment.

On a single day in March 2000, Johnson filed paperwork to assign **guardians** to eight nursing home patients. Six of the guardianships were approved in hearings, most of which lasted less than 10 minutes each, transcripts show. In one appearance, court officials talked more about a car accident involving Johnson than about the patients.

The two cases not approved involved nursing home patients who had never lived in the District, violating a basic requirement.

Another patient was assigned a **guardian** even though she already had one, named more than a decade earlier. Court records show that the two **guardians** did not learn about each other until two years later, when the woman became ill and was sent to the hospital.

In August, the D.C. Court of Appeals criticized Judge Kaye K. Christian's decision to place 87-year-old Mollie Orshansky, a wealthy patient with dementia at George Washington University Hospital, under the high-priced care of

court-appointed strangers.

The court ruled that Christian had declared Orshansky incapacitated without a factual basis. It said that the judge failed to appoint independent experts to assess Orshansky and ignored her wishes to have relatives care for her. Orshansky had named a niece to make medical decisions and a sister to control her finances.

The appeals court noted that Orshansky was not brought to her hearing, despite provisions in the law that required her presence.

Although the law allows judges to waive that requirement and the appointment of two experts, the appeals court said that should happen rarely.

In the District, however, it has been routine, court records show. The Post examined every available guardianship case initiated during the first half of last year. Few of the subjects of the hearings -- roughly one in four -- were present when judges evaluated their cases. Some were too ill or refused to attend. In other cases, none of the parties brought the person to court.

To determine whether a guardianship is necessary, the appeals court said, judges should always appoint two independent experts, unless there are "sound reasons" not to. But that was done in just two of 130 cases. In the vast majority -- 100 of 130 -- judges accepted the unchallenged recommendations of experts supplied by the person or institution seeking to have someone declared incapacitated. In 28 other cases, judges appointed some expert, but not both of those spelled out in the law.

Judge King, speaking on behalf of the probate judges, said they believed they were following the law and that they had the discretion to use the exceptions routinely. In part, he said, they hoped to reduce the additional fees.

"Clearly, Orshansky is now the law, and that's what we're following," King said.

For Ella Nelson, the wealthy woman who fired attorney Robert Gazzola, the question in court was whether she could make her own decisions. In just over two years, Gazzola gave opposite views on that question, court records show. He stood to gain financially in both cases.

The two met in January 2000, and Gazzola became Nelson's attorney the same day. She had been moved to a Rockville nursing home after being hospitalized for dehydration and a fall in her D.C. home. Days earlier, Gazzola said, he had been hired by Nelson's granddaughter Janis Fry, who disagreed with other relatives about whether Nelson needed help to care for herself.

At the moment she met Gazzola in her nursing home room, Nelson said later, she was weak and recovering. Nelson signed a paper hiring Gazzola, according to her statements to the court. She later gave him power of attorney, the authority to make legal decisions for her. He explained to Nelson that this was a way to prevent the court from appointing someone to take control of her life, according to her court statements.

Gazzola said Nelson's doctor indicated that she was healthy and capable of hiring him. A month after their meeting, Gazzola appeared in court insisting that Nelson was of sound mind and needed no **guardian** because he was her attorney.

A few months later, Nelson signed a will that Gazzola had written, which gave him extensive power. When she died, he would be in charge of managing her estate. Instead of the heirs receiving their shares directly, Gazzola would run a lifetime trust for their benefit, deciding what work needed to be done and how much his firm should be paid.

In spring 2002, Nelson grew suspicious of Gazzola, revoking his power of attorney and hiring a new lawyer to write a new will. Gazzola went to court to block her, arguing that she was incapable of making independent decisions and was being overly influenced by her granddaughter. He urged Judge Christian to make him Nelson's **guardian** and said the court should honor the will he had drafted, not the new will.

In a deposition, Gazzola tried to explain why he thought Nelson was mentally sure when she hired him but not when she fired him. He said Nelson began making irrational statements, accusing him of theft, about April 2002, the month she said she revoked the power of attorney. In the same deposition, Gazzola said Nelson was capable of writing a check to pay his fees the next month.

During the court investigation, Nelson complained that Gazzola had deceived her and tried to use his clout in court

to make money from her and control her life.

"He can lock me up and do anything he wants with me. It's vicious," Nelson said to the investigator.

Gazzola, who trains new probate attorneys and is considered a dean in the system, acknowledged that it could look like a conflict of interest to try to have a client who fired him placed under his control.

"It's a question of the appearance or the reality," he said. "My goals were to protect her and not pursue my own interests."

He said he sought to place her in a guardianship because he had earlier promised the court that he would do so if he ever considered Nelson a danger to herself or others.

Last fall, Christian decided that Nelson did not need full guardianship. She said Noble, the current attorney, should make decisions on Nelson's health and finances after consulting with her. In January, a court investigator detailed Gazzola's acrimony with Nelson and his role in her will. The investigator determined that to avoid a conflict of interest, Gazzola should not be **guardian** or trustee. The court investigator agreed that the granddaughter had tried to pressure Nelson but also described Nelson as competent. She could diagram her family tree, compare President Bush with his father and justify her decision in the 1990s not to invest in Enron, the report said.

Nelson, who had survived the deaths of her two children and her naval officer husband, insisted that she wanted nothing to do with Gazzola. "Tell him that," she said in a statement videotaped for the court. "He thought he was fooling me. But he wasn't fooling Ella W. Nelson."

Left undecided is who will manage Nelson's millions, and attorneys expect a contest over which of Nelson's wills should be honored. She signed a third will this year to prevent Gazzola from becoming trustee.

Meantime, the costs continue to mount. Nelson paid at least $ 103,000 in legal fees to Gazzola's firm -- for tasks that included paying her bills, reading her mail and consulting with her broker -- during the two years that he was her attorney.

But even after firing him, Nelson is still paying Gazzola. In the past few months, she has been ordered to pay him $ 10,556 more for his effort to have her declared incapacitated and be named her **guardian.**

She is also paying the other lawyers and court-appointed experts drawn into that dispute. Among them is Tanja Castro, a lawyer Gazzola hired to help him. That has cost $ 23,400. So far, Nelson's tab for the year-long battle is $ 82,648. Castro did not return calls seeking comment.

"We were trying to do the least intrusive thing and just make sure my grandmother was taken care of," said Leslie Hodnett, another of Nelson's granddaughters. "But the lawyers and the court had other designs and agendas."

Staff writer Lena H. Sun and researcher Bobbye Pratt contributed to this report.

For video interviews, court documents, an online discussion and more, go to www.washingtonpost.com/**guardian**.

LOAD-DATE: June 16, 2003

Chairman TOM DAVIS. There is a question as to whether existing safeguards such as new training and performance standards for probate lawyers, as well as screening procedures for an appointment of guardians and conservators are enough and whether other actions by the court or by Congress is needed. I'm also interested in learning more about the administration of the probate division because this committee has received reports of delays in processing appointments reports and payment requests. We need to better understand the appointment responsibilities and accountability of the registrar of wills and her staff, the relationship of the register of wills office with practitioners and the adequacy of the reporting requirements for conservators and the enforcement of those requirements by the register of wills and the court.

As for the family court, most of you know Congress created this court as part of a broader reform effort in the child welfare system, and as an extension of the reform we'd already begun with the District's Child and Family Services Agency. The Family Court Act of 2001 was crafted to resolve specific shortcomings in the court, including structural organization and case management practices.

The act increased the number of family court judges and required that judges have a background in family law and participate in ongoing training. This was intended to ensure that family court judges are dedicated to serving on the court and alleviate the sense among many judges that serving on the family court is a required stepping stone to a more desirable position on the superior court. The new family court permits judges to maintain manageable case loads. It is intended to reduce the backlog of cases that existed for many years. Furthermore, the critical one family, one judge concept allows for the continuity of case managements and requires that a single judge follow the case through disposition. Consolidation of public functions of the court sends the message to the public that the family court is an integral and critical part of the court system, not an afterthought.

Today witnesses will discuss the court's progress in implementing the Family Court Act as well as its compliance with the Adoption and Safe Families Acts. GAO reports that the family court is making progress in both areas and is seeing tremendous improvements in its operations as a result. However, there are still areas for improvement which we have asked the court to address, such as better compliance with the ASFA permanency deadlines. We will determine what, if any, assistance we may provide to guarantee the family court continues moving in the right direction. We have a distinguished group of witnesses before us this morning. First we'll hear from the chief judge of the superior court and the presiding judge of the family court and the probate division.

Then we will hear from the Council for Court Excellence, which can address their work in all three areas that we are looking at today. The General Accounting Office, which has done extensive analysis of the family court situation. A representative from the Legal Counsel for the Elderly, which represents indigent persons in probate proceedings and two members of the D.C. Bar, who practice in the probate court. I want to thank all of our witnesses for appearing before the committee. I look forward to their testimony.

[The prepared statement of Chairman Tom Davis follows:]

OPENING STATEMENT
CHAIRMAN TOM DAVIS
COMMITTEE ON GOVERNMENT REFORM
OVERSIGHT HEARING

"Justice for All:
A Review of the Operations of the District of Columbia Superior Court"

APRIL 23, 2004

ROOM 2154 RAYBURN HOUSE OFFICE BUILDING

Good morning. A quorum being present, the Committee on Government Reform will come to order. I would like to welcome everyone to our oversight hearing on the D.C. Superior Court. In Federalist No. 22, Alexander Hamilton noted that the crowning defect of the Articles of Confederation was the lack of a judiciary. Today, we will look at the management and administration of that critical element of our political system in the District of Columbia. We will focus particularly on the Probate Division and the Family Court, which play an important role in protecting the most vulnerable among us – the elderly, the infirm and children.

Before we begin, I'd like to take a moment to acknowledge the passing this week of Mary McGrory, the longtime *Washington Post* and *Washington Star* columnist. I do so today because, among the many highlights in her distinguished career, Mary was a strong advocate for children in the District of Columbia, including her support of the creation of the D.C. Family Court. Using her customary mix of charm and tenacity, and her space on the editorial page of one of the nation's biggest newspapers, Mary became an irresistible force for better legal treatment for the most defenseless members of our society. Her contributions to this city and this region will be sorely missed.

This hearing will focus on three main areas: the first is general administration of the D.C. Superior Court, including performance goals and measures, fiscal management, and the Integrated Justice Information System; the second is the Probate Division, particularly the possible neglect or abuse by court-appointed guardians and conservators; and the final areas is how the establishment of the Family Court has improved child welfare in the District of Columbia.

Regarding the Probate Division, this Committee is concerned that court-appointed guardians and conservators are taking advantage of or neglecting their clients. We have received a report that a conservator's failure to make mortgage payments on the ward's house resulted in foreclosure. This same conservator failed to pay real estate taxes, failed to make annual financial filings, and failed to prevent a health care provider to take assets of the ward. This report comes on the heels of a *Washington Post* series that detailed instances of mistreatment of elderly, mentally ill and indigent individuals by guardians and conservators appointed in the District of Columbia -- and suggested that the court system exercised little control or discipline over those it appoints to protect the needy.

The Committee needs to know how, and whether, the court addresses these problems. There is a question as to whether existing safeguards – such as new training and performance standards for probate lawyers, as well as screening procedures for appointment of guardians and conservators – are enough, and whether other action by the Court, or by Congress, is needed.

I am also interested in learning more about the administration of the Probate Division because this Committee has received reports of delays in processing appointments, reports, and payment requests. We need to better understand the appointment, responsibilities, and accountability of the Register of Wills and her staff, the relationship of the Register of Wills Office with practitioners, and the adequacy of the reporting requirements for conservators and the enforcement of those requirements by the Register of Wills and the Court.

As for the Family Court, most of you know Congress created the court as part of a broader reform effort in the child welfare system, and as an extension of the reform we had already begun within the District's Child and Family Services Agency. The Family Court Act of 2001 was crafted to resolve specific shortcomings in the court, including structural organization and case management practices. The Act increased the number of Family Court judges and required that judges have a background in family law and participate in on-going training. This was intended to ensure that Family Court judges are dedicated to serving on the court, and alleviates the sense among many judges that serving on the Family Court is a required stepping stone to more desirable positions in Superior Court.

The new Family Court permits judges to maintain manageable caseloads and is intended to reduce the backlog of cases that existed for many years. Furthermore, the critical "One Family, One Judge" concept allows for the continuity of case management and requires that a single judge follow the case through disposition. Consolidation of public functions of the Court sends the message to the public that the Family Court is an integral and critical part of the court system and not an afterthought.

Today, witnesses will discuss the court's progress in implementing the Family Court Act, as well as its compliance with the Adoption and Safe Families Act (ASFA). GAO reports that the Family Court is making progress in both areas and is seeing tremendous improvements in its operations as a result. However, there are still areas for improvement, which we have asked the Court to address such as better compliance with the ASFA permanency deadlines. We will determine what, if any, assistance we may provide to guarantee that the Family Court continues moving in the right direction.

We have a distinguished group of witnesses before us this morning. First, we will hear from the Chief Judge of the Superior Court and the Presiding Judges of the Family Court and the Probate Division. Then we will hear from: the Council for Court Excellence, which can address their work in all three areas that we are looking at today; the General Accounting Office, which has done extensive analysis of the Family Court situation; a representative from the Legal Counsel for the Elderly, which represents indigent persons in probate proceedings; and two members of the D.C. Bar who practice in the probate court.

Chairman TOM DAVIS. Ms. Norton any opening comments?

Ms. NORTON. Thank you very much, Mr. Chairman. As usual, I associate myself with the chairman's remarks. I'd particularly do so as to those part of his remarks that—to the part of his remarks concerning Mary McGrory, and I note for the record that the chairman has extolled the virtues of a confessed and unabashed liberal. Thank you, Mr. Chairman, for initiating this hearing. I have only brief opening remarks. This is a necessary and appropriate oversight hearing, because Federal law has placed jurisdiction and the cost of the DC courts with the Congress. Today the committee is focusing on two parts of the superior court, because each has had its own sets of problems.

This committee has worked—has closely followed the family court division since the death of an infant, Brianna Blackman, exposed the structural issues in the old family division. As a result, Majority Leader Tom DeLay, who has long been involved with issues of affecting abused and neglected children, and I, worked for many months on the District of Columbia Family Court Act of 2001, H.R. 2657. The first revision of the superior court since its creation more than 30 years ago. The court initially resisted many of the changes, although many had long been recommended by respected panels such as the Council of Court Excellence. Nevertheless, I think it is fair to say that a successful major transformation in the family court has been undertaken.

I appreciate the partnership I had with Mr. DeLay in writing the bill and his efforts, which assured substantial increased funding to carry out the extensive changes the new law made in the court. The Congress paid for this transformation with extra funding, but the court deserves the credit for the considerable changes. Today, I will be particularly interested in learning why this success has not been reflected where it is most needed, in the timely placement of foster children in permanent homes. The probate division is a different case. The committee has not previously looked at the probate division but learned of problems the same way we originally learned of the problems of the family division, through unfavorable public reports. Just as the death of Brianna focused the Congress on the family division, reports of neglect of infirmed adults by guardians and conservators indicated a need for attention to the probate division.

Apparently, change is underway. I will be particularly interested in the court's progress in meeting the problems of the probate division. May I thank all of today's witnesses for their work with our courts and for their testimony. Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you very much. Testifying on our first panel we have the Honorable Rufus G King III, the chief judge of the District of Columbia Superior Court, the Honorable Lee F. Satterfield, presiding judge, Family Court of the District of Columbia Superior Court; and the Honorable Jose M. Lopez, presiding judge of the probate division.

It's the policy of the committee that all witnesses be sworn before they testify. Would you rise with me and raise your right hands.

[Witnesses sworn.]

Chairman TOM DAVIS. Judge King, we'll start with you. And try to keep the testimony to 5 minutes. If you need to go over, it's pret-

ty informal today, but your entire testimony is already in the record, and we've read it and have questions based on that, so you can highlight what you need to do. And you have a light that will turn orange after 4 minutes and red after 5. And do your best to adhere to it, but we're here to listen to you and get input and just have a conversation. Judge, thanks for your service and thanks for being with us this morning.

STATEMENTS OF RUFUS G. KING III, CHIEF JUDGE, DISTRICT OF COLUMBIA SUPERIOR COURT; LEE F. SATTERFIELD, PRESIDING JUDGE, FAMILY COURT, DISTRICT OF COLUMBIA SUPERIOR COURT; AND JOSE M. LOPEZ, PRESIDING JUDGE, PROBATE DIVISION, DISTRICT OF COLUMBIA SUPERIOR COURT

Judge KING. Thank you, Mr. Chairman. Congresswoman Norton, thank you for the opportunity to appear today. If I may beg your indulgence for just a moment, I would like to add my appreciation for Mary McGrory. One of the facts that isn't talked about as much as some of her many accomplishments is that for over 50 years, every week, week in and week out, without break for holidays or any other reason, she would go out to the St. Anne's infants home and read to and play with the children who were at that home as a result of various family dysfunctions. And in working with her, I know from having been her target a number of times, how incisive her mind was.

At the same time, I think that her service at St. Anne's infants home speak volumes of the huge size of that person. I am going to take just a few moments because I know the committee wishes to hear from the family court and the probate court to touch on a few of the things that the superior court has ongoing now and has recently completed. I must begin by thanking both of you, as well as the majority leader for the support you have given the superior court and our family court. The Family Court Act of 2001 and the resources that you help to provide to implement that act upgrade our IT systems and enhance our facilities has been most beneficial, not just for the court, but more importantly, for the District of Columbia public.

On behalf of Chief Judge Annice Wagner of the court of appeals and myself, I want to express our deep appreciation for the strong support you have shown us. To touch on a few of the current and recent activities, the D.C. Family Court Act has now fully implemented one judge, one family, transfer of cases into the family court, more timely permanency for abused and neglected children about which more from Judge Satterfield. The Mayor's Services Liaison Office is up and running in the Moultrie Courthouse, making services available easily for those who need them. A family court self-help center was developed and implemented in partnership with the family bar to assist unrepresented litigants.

A family treatment court has been established for mothers with substance abuse problems so that they may receive drug treatment, counseling and parenting classes without having their families torn asunder in the process. Interdisciplinary training has been held annually for judges, social workers and others, tightening our connection with and coordination with others in the child welfare system.

Elsewhere in the superior court, the Landlord Tenant Resource Center has been developed and opened, again in partnership with the bar to provide assistance to those most in need of it in that very busy court.

The Greater Southeast Domestic Violence Intake Unit has been established and assists over 100 domestic violence victims each month in the east of the river community, enabling them to obtain temporary protection orders at a location near their homes. Community courts have been set up as pilot projects, first in the minor misdemeanor and traffic court, and then in our general misdemeanor court, covering all of the east of the river community in wards 6 and 7. And that—and as well, we have established a separate prostitution calendar.

Those courts are showing promising results in providing a fresh and more successful approach to some of the social problems that contribute to the crime that so many of us experience. Town hall meetings have been held both in connection with the community courts and with the family court to make sure that we are aware of the concerns of the communities we serve and what we're trying to accomplish for them. We have four more such meetings planned over the next 6 weeks. The court's new integrated justice information system has been implemented in the family court and will be brought on-line in the probate and civil divisions some time in the early summer. I just replaced 20 different data bases the court has been using for over 2 decades and brings us closer to a reality of being able to easily coordinate cases from all different parts of the superior court, which is a unified court system.

The probate division, working with the bar, established a mandatory training requirement for attorneys who wish to receive court an appointments and is in the final stages of writing practice standards for all attorneys appearing before the division. An administrative order tightened requirements for timely filing of reports and accountings and it is in the final stages of revision, consistent again with comment from the bar. And we are seeking to continue our collaboration with the bar in addressing various concerns in that division, as you will hear more about shortly. Building B has been renovated and the small claims and landlord tenant courts have been relocated there to actually where they originated in 1938 in public friendly space within steps of the judiciary square metro stop.

The Crime Victims Compensation Program has received a major physical renovation and up lift at its quarters in building A. Currently, a major construction project is underway in the Moultrie Courthouse to consolidate family court public operations on the J M level. This new family friendly space will have a central intake office for all types of cases and filings, child waiting areas and new courtrooms and hearing rooms and it will open in July. I am particularly proud to be able to report that all of these construction projects have been completed on schedule and in budget.

Finally, the District of Columbia courts have developed a strategic plan and are well along the way toward implementing it. Led by the Strategic Planning Leadership Council made up of judges and senior administrators, each division and branch of the superior court is developing management action plans to bring the broad

court wide goals into specific projects and operations. The ultimate goal is to better realize the court's mission, to protect rights and liberties, uphold and interpret the law and resolve disputes peacefully, fairly and effectively in the Nation's Capital.

I will stop here as I understand the committee wishes to hear from the presiding judge of the family court, Judge Lee M. Satterfield, and from the presiding judge of the probate division, Judge Jose M. Lopez. Thank you for allowing me to speak on behalf of the superior court. I will be happy to assist in any questions.

Chairman TOM DAVIS. Thank you.

[The prepared statement of Judge King follows:]

STATEMENT OF THE HONORABLE RUFUS G. KING III
CHIEF JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
BEFORE THE HOUSE GOVERNMENT REFORM COMMITTEE
April 23, 2004

Mr. Chairman, Congresswoman Norton, other committee members, I appreciate the opportunity to testify before you today about the operations of the Superior Court of the District of Columbia, recent accomplishments and initiatives, and our plans for the future.

I must begin by thanking both of you, as well as the Majority Leader, for all the support you have given the Superior Court and our Family Court. The Family Court Act of 2001 and the resources that you helped provide to implement that act, upgrade our I.T. systems, and enhance our facilities, have been most beneficial not just to the court, but more importantly to the District of Columbia public. On behalf of Chief Judge Annice Wagner of the Court of Appeals and myself, I want to express great appreciation for the strong support you have shown us.

SUPERIOR COURT OVERALL

I would like to begin by highlighting some of our accomplishments and achievements of the past year, beginning with the Family Court.

- The D.C. Family Court Act is now fully implemented – one judge/one family, transfer of cases, more timely permanency for abused and neglected children have all been put in place.
- The Mayor's Services Liaison Office is up and running in the Moultrie Courthouse.
- The Family Court Self-Help Center was developed and implemented in partnership with the bar to assist unrepresented litigants.
- The Family Treatment Court was established for mothers with substance abuse problems, so that they may receive drug treatment, counseling and parenting classes while still together with their children.
- Cross-trainings have been held annually for judges, social workers and others serving the city's most vulnerable families.

And elsewhere in the Superior Court:

- The Landlord & Tenant Resource Center developed and implemented in partnership with the bar.

- The Probate Fiduciary Panel was established to ensure high quality legal representation.

- The Greater SE DV unit was established and assists well over 100 domestic violence victims each month in the East of the River community, enabling them to get a Temporary Protection Order (TPO) at a location near their home

- Community courts have been piloted – first DC/Traffic and then our 'East of the River' community court as well as a separate prostitution calendar.

- Town hall meetings have been held, providing the community with the opportunity to tell us about their concerns about public safety and how we can make the justice system more responsive to their needs.

- The Courts' new integrated justice information system (IJIS) has been implemented in Family Court and will be brought on line in the Probate and Civil Divisions shortly. IJIS replaces close to 20 different databases the courts have been using for over two decades.

- Building B has been renovated, and Small Claims and L&T Courts have been relocated there to new, public-friendly space within steps of the Judiciary Square metro stop.

- The Crime Victims Compensation Program received a major physical renovation in Court Building A.

- Currently a major construction project is underway in the Moultrie Courthouse to consolidate Family Court operations on the JM-level. This new family-friendly space, with a central case intake function, child waiting areas and new courtrooms and hearing rooms, will open in July.

- These construction projects have all been completed on time and within budget.

Strategic Plan

Perhaps our most important achievement in the past year is the development and implementation of the District of Columbia Courts' Strategic Plan. This effort has been led by the Strategic Planning Leadership Council (SPLC), which is made up of judges and key administrators from both courts. The SPLC met for innumerable hours, solicited input from a wide array of stakeholders – attorneys, other agency workers and leaders, community members, court users, and many others, – and developed a five-

year plan identifying key strategic issues the D.C. Courts must address. In addition to stakeholder input, the SPLC studied nationally-recognized trial and appellate court performance standards and began identifying best practices in various areas of court operations.

The strategic issues, goals, and strategies of the Plan are being taken up by divisions, branches, units and employees, through the development of Management Action Plans (MAPs). These identify specific activities to be undertaken within a division or unit to help achieve the Courts' Vision and Mission. Through this process, employees will be able to see more clearly how their job, fits into the "big picture" of ensuring that the District of Columbia Courts fulfill their mission: "To protect rights and liberties, uphold and interpret the law, and resolve disputes peacefully, fairly and effectively in the Nation's Capital." We want employees to see that there are no unimportant jobs, and to see how their job fits with our overall role of administering justice to the community.

This is not easy work – self-assessment and change come hard for most of us. But we have been told recently by a nationally-recognized court strategic planning expert that our performance has set us apart – we have not only created an excellent and appropriate strategic plan, but are working effectively to implement it throughout the Courts.

All of our division managers have received training and have been at work for the past year assessing where they are, and where they need to be with respect to our mission, and developing MAPs to ensure that we achieve it. I can report that the Probate Division has been the leader in this initiative. The Division has a comprehensive plan for the future and a committed team that has already developed and begun implementing its MAP. Improvements and changes are underway in the division, with the support of employees and managers.

PROBATE DIVISION

Background

As you may know, the Probate Division of the Superior Court has jurisdiction over decedents' estates, trusts, guardianships of minors, and guardianships and conservatorships of incapacitated adults. The organizational components are the Office of the Register of Wills, a statutory office, and three branches: the Auditing and Appraisals Branch, which audits accounts of fiduciaries and appraises personal property; the Probate Operations Branch, consisting of the Small Estates Section, which processes decedents' estates having assets of $40,000 or less, and the Decedents Estates and Guardianships of Minors Section, which processes estates having assets in excess of $40,000 and guardianships of minors; and the Interventions & Trusts Branch, which processes guardianships and conservatorships of incapacitated adults and trusts. The Division is staffed by 46 full time employees, consisting of five attorneys, sixteen auditors, and a variety of mid-level and clerical positions.

Two judges are assigned to the Probate Division, and they are assisted by four senior, part-time judges as needed. The judges usually serve in the Division for approximately six years, three years as deputy presiding and three years as presiding judge. I appointed Judge José M. López as presiding judge and A. Franklin Burgess, Jr. as deputy presiding judge in January of this year.

At the end of 2003, there were 7,208 cases pending in the Division, consisting of: 4,427 decedents' estates, 2,153 guardianships and conservatorships of incapacitated adults, 350 guardianships of minors, and 278 trusts. Fiduciaries in these cases filed 2,163 accounting reports in 2003.

Register of Wills

Register of Wills

The Office of the Register of Wills is established by DC Code § 11-2101 and has been in existence for over 200 years. The appointment and qualifications of the Register of Wills are governed by D.C. Code § 11-2102. Under that section, the Superior Court shall appoint and remove the Register of Wills. In practice, a selection committee of judges conducts the recruitment and selection process and presents recommendations to the Board of Judges of the Superior Court, which acts by majority vote. Effective fiscal year 2004, all senior court managers including the Register of Wills were transferred to the Court Executive Service and are accountable for achieving both court-wide performance objectives as well as division objectives consistent with the Courts' strategic plan.

In addition to the responsibilities as clerk of the division, the Register of Wills is authorized by court rule, SCR-PD 2, to review all *ex parte* matters and all orders on consent or waiver of notice prepared for the signature of a judge and to make such recommendations to the judges as may be appropriate. Four deputies, who meet with the public to review filings and write recommendations, assist the Register of Wills in this function. Approximately 10,000 matters annually are processed in this manner. Most matters are routine in nature, and the recommendations of the Register of Wills are adopted. Matters requiring the exercise of judicial discretion are fully briefed by the Register of Wills and submitted to the judges for action without recommendation. And in some instances court hearings are recommended.

Under separate court rules, the Register of Wills has the responsibility to bring to the attention of the probate judges irregularities in the administration of estates, including a failure to comply with reporting requirements, and to seek removal of fiduciaries when appropriate. Hearings on the subject of removal (referred to as "summary hearings") are scheduled in approximately 15% of the cases pending, resulting in approximately 1,000 such hearings annually. Most fiduciaries comply during the summary hearing process, though two to three percent of fiduciaries are actually removed from cases.

Statutory Changes Affecting the Probate Division

Under the *Probate Reform Act of 1994*, effective March 21, 1995, and applicable to estates of persons dying on or after July 1, 1995, court supervision of the administration of decedents' estates was diminished in a manner consistent with model uniform laws. Previously, annual accountings of estates were required and audits were conducted by the Probate Division. Under the *Probate Reform Act of 1994*, administration of these estates is now unsupervised, and though accountings must be provided to interested persons, they need not be filed with the Court. The Act also dispensed with Court review of compensation to personal representatives and their counsel. Instead, review of compensation occurs only when requested by an interested person. Consequently, the vast majority of decedents' estates now proceed without Court supervision, and the Division has experienced a substantial reduction in the number of account filings. During the last decade, the staffing in the Division was gradually reduced by attrition from 76 full time employees to its current level of 46.

The *Probate Reform Act of 1994* followed enactment of another uniform law, the *Guardianship, Protective Proceedings, and Durable Power of Attorney Revision Amendment Act of 1989*, which became effective September 22, 1989. That law enhanced the protections of adult incapacitated individuals and required the involvement of a greater number of service providers at the initial stage of the proceedings, including the court appointment of counsel for the incapacitated adult; examiners, such as gerontologists, psychiatrists, or qualified mental retardation professionals; visitors, who may be social workers or any independent fact-finder; and guardians *ad litem*, who are generally attorneys appointed when the subject of the proceeding is unable to communicate his or her interest. The increased number of service providers for incapacitated adults resulted in an increase in compensation requests filed in the Probate Division, as both accountings and compensation require court review under this law.

Two other statutory changes have occurred in the past three years having lesser operational implications. Effective April 27, 2001, the *Omnibus Trusts, and Estates Amendment Act of 2000* was adopted, which substantially altered the probate law governing descent and distribution and payment of claims. Effective March 10, 2004, the *Uniform Trust Code Act of 2003* was adopted, providing the first comprehensive trust code for the District of Columbia. Implementation of both laws required rule revisions, development of court forms and staff training which have been completed for the *Omnibus Trusts Act* and are being completed for the *Uniform Trust Code Act.*

Need for Modern Technology

The Probate Division is implementing a new computerized case management system as part of the Superior Court's IJIS program. The probate component of IJIS is scheduled to go on-line this summer. Until then, the Division will continue to use a computerized indexing and docketing system that was installed in the late 1980s and that has little case management capability. Despite the shortcomings of this older system, the Division has had a relatively high degree of success in monitoring its caseload.

Monitoring of Guardianships and Conservatorships

When implementing the 1989 Guardianship and Protective Proceedings Act, the Court considered a number of methods to monitor these cases. Meetings were held with stakeholders including the American Association of Retired Persons (AARP) and the Advisory Committee on Probate and Fiduciary Rules, and the Court decided not to conduct site visits in a *parens patriae* approach to monitoring the care and supervision of wards.

Accordingly, in the case of a guardian who is appointed to provide care and supervision of an incapacitated person, the Court Rules require the filing of a written report to the Court on the condition of the ward and the ward's estate that has been subject to the guardian's possession or control. The first report is due six months from the date of appointment, with each succeeding report due at six-month intervals thereafter.

Upon the filing of the reports, the Probate Division staff reviews them for procedural compliance and brings any substantive irregularity to the attention of the judges for such action as may be deemed appropriate. Approximately 1,400 guardianship reports are filed semi-annually and less than one percent are brought to the attention of the judges for further action. Virtually no objections are filed to these reports. These procedures have recently been augmented by an administrative order which requires any attorney seeking compensation in a guardianship case to personally verify, at least by telephone, the location and circumstances of the ward.

Conservators are appointed to manage the financial affairs of incapacitated persons and they are required to file a conservatorship plan and inventory within 60 days from the date of appointment. They are also required to file an accounting annually. These accounts are examined by the Probate Division staff, who also examine financial documentation for each transaction. Irregularities in the accounts that cannot be resolved by the administrative staff are brought to the attention of the judges. Approximately 1,000 conservatorship accounts are filed annually. Probate Division staff estimate that about 60% of the accounts have no or only minor irregularities and 40% have substantive deficiencies, most of which are resolved administratively. The detailed audits are completed and the accounts are approved by the Court, within an average of 120 days.

Reforms Made

To ensure that attorneys appointed by the Court are qualified to provide effective representation in probate cases, several actions were taken during 2002. The Probate Education Committee developed a training program for attorneys who are seeking court appointments. Three extensive training programs have been conducted since October 2002. In addition, Attorney Practice Standards were drafted. They have been reviewed by Bar Counsel and are in the final stage of revision for issuance by the court. The on-going attorney training programs consist of a three-day video seminar, with each day's

session approximately two-and-one-half hours long. The seminar topics include Intervention Proceedings, Probate Administration and Guardianship of Minors-Bond Issues-Register of Wills and Fiduciary Responsibility. The Division also conducted a special seminar with a leading bio-ethicist to acquaint lawyers and judges with some of the complexities of bioethical issues that arise in fiduciary proceedings.

A new Fiduciary Panel of attorneys eligible for appointment was created effective January 1, 2003 to exercise greater oversight of court-appointed counsel. Only attorneys who have attended at least six hours of training presented by the Division and who have submitted Certificates Concerning Discipline from the Office of Bar Counsel are included on the panel. The Fiduciary Panel was formalized by Administrative Order 03-16 issued by the Chief Judge on June 17, 2003, which made membership on the panel a prerequisite to appointment as counsel or fiduciary in guardianship, conservatorship, and other Probate Division proceedings. The Administrative Order also mandates that attorneys certify to the Court that they are current with filings in all probate cases where court approval is required as a condition of an award of compensation.

On November 12, 2003, the Probate Division held a Bench/Bar meeting as an outreach initiative to improve communication. The presiding judge of the division facilitated a panel discussion followed by a question and answer period. The panel was comprised of judges, a representative of the bar and the Register of Wills.

Current Status

In April of 2003, the Probate Division volunteered as a division to pilot the development of a Management Action Plan (MAP), the division plan on how to implement the Courts' overall Strategic Plan and ensure consistency of goals and objectives. The Division recently celebrated completion of several milestones in its MAP designed to enhance service to the public. On February 19 and 25, 2004, the staff participated in a customer service training program facilitated by an outside trainer. The program included an open discussion sharing recently received comments from bar members regarding areas in which services provided by the Division could be improved.

The Division also administered a survey during the period February 23 through 27, as a key step in its MAP objective to solicit input from Probate Division consumers regarding probate clerical operations and performance. A second survey will be conducted later in July 2004, which will enable management to measure performance and determine where changes or improvements may be needed to best serve the public. This MAP objective is consistent with the court-wide goal to be responsive to the community. The expected outcome of the surveys is to provide a standard mechanism to receive and evaluate input from the public regarding Probate Division performance and to track those results over time. The survey target is to obtain input in the form of completed surveys from at least 50% of persons served in the clerk's office on the days

the surveys are administered. The targets of both the training and survey objectives thus far, have been met. A third MAP objective designed to enhance satisfaction among those appearing before the Division offices has also been met - to limit waiting times to ten minutes 95% of the time.

Completed surveys were received from over 75% of the persons assisted in the Probate Division on the days the surveys were administered. The results show that more than 90% of the respondents agreed or strongly agreed that the service they received in the Probate Division was courteous and responsive. Ninety five percent received assistance within 10 minutes of waiting, and 96% reported that their visit was a positive experience. The completion of the training, maintaining minimal waiting times, administering the first of two planned surveys and the achievement of high marks from persons doing business there are all milestones in the Probate Division's efforts to achieve its 2004 - 2006 performance objectives.

The Superior Court sought additional resources in its FY'05 appropriation request to enhance the protection of, and services to, incapacitated adults, and to improve timeliness of case resolution. The Courts requested an additional 8 FTEs, and approximately $1.6 million, which was not supported in the President's FY'05 budget recommendation for the Courts. Absent needed additional resources, the Probate Division will continue to re-engineer processes, enhance public access and service, and adopt mechanisms to ensure that persons and assets under the court's supervision are protected.

FAMILY COURT

Congress passed the Family Court Act in December 2001 and required that the Court submit to Congress a progress report on its implementation activities every 6 months for the first two years following enactment of the Act. In addition, the Act required that the Court submit an annual report on its progress, including progress on meeting the required timelines established under Federal and D.C. ASFA, by March 31 of each year. My remarks this morning will summarize and highlight the most important findings included in our most recent Annual Report, submitted on March 28, 2004.

ASFA Compliance in General

The effective date of ASFA implementation in the District of Columbia was February 1, 2000. In order to monitor compliance with ASFA timelines, the Court began compiling data on the time between the filing of a petition on the one hand and trial, disposition and permanency hearing on the other, in all cases filed since that time. Federal and D.C. ASFA legislation require the Court to hold a permanency hearing for each child within 12 months of the child's entry into foster care. Entry into foster care is defined as 60 days after removal from the home, resulting in a net requirement for a permanency hearing 14 months after removal. The purpose of the permanency hearing is to decide the child's permanency goal and to set a timetable for achieving it. Under Federal ASFA, a permanency hearing is required for all children removed from home.

In approximately 80% of the cases filed in the D.C. Family Court, the children were removed from their homes and thus subject to the 14-month permanency requirement. Although not required under either Federal or D.C. ASFA, the practice in the D.C. Family Court is to conduct permanency hearings for all children, including those not removed from home.

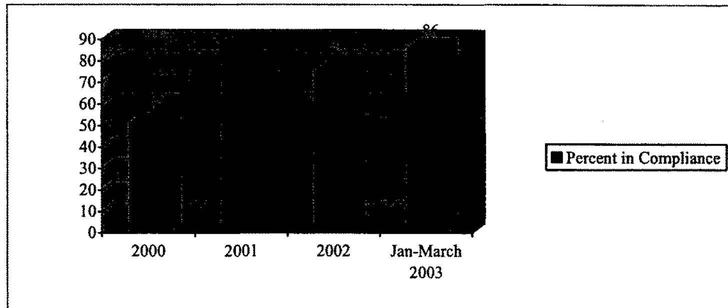
In addition to establishing a timeline for conducting a permanency hearing, the D.C. ASFA establishes timelines for the completion of the trial and disposition in abuse and neglect cases. The timelines vary depending on whether the child was removed from his or her home. The statute sets the time between filing of the petition and trial or stipulation at 45 days for a child not removed from the home and at 105 days for a child removed from the home. The statute requires that trial and disposition occur on the same day whether the child has been removed or not, but permits the Court fifteen additional days to hold a disposition hearing for good cause shown.

Over the four-year period for which data is available, the Court has made considerable progress toward achieving the goals of ASFA. To be considered compliant, the required hearing must be held within the timeline or the case must be dismissed within the timeline.

ASFA Compliance -- Permanency Hearing timeliness

Figure 1 below shows the Court's compliance with the permanency hearing requirement. The level of compliance has increased substantially over the three-year period for which data are available. In 2000, 51% of cases had a permanency hearing or the case was dismissed within the 425-day deadline; in 2001, 80% of the cases had a permanency hearing or were dismissed; and in 2002, 75% of the cases had a permanency hearing or were dismissed within the 425-day deadline. Only cases filed during the first quarter of 2003 have reached the statutory deadline for having a permanency hearing. All cases filed during that period which have had a permanency hearing, had their hearing within the 14-month statutory deadline. However, 14% of the cases filed during that period have not had a permanency hearing, possibly because the hearing date has not yet occurred. Thus these findings should be considered tentative. Newly developed protocols designed to ensure compliance with the deadline are in place to ensure that all remaining cases filed in 2003 will have a hearing within the required timeframe and that the required findings by judicial officers are made.

Figure 1.
Cases in Compliance with ASFA Permanency Hearing Requirement



ASFA Compliance -- Time to Trial and Disposition

During the four-year period over which the Court has been tracking data, the Court has made significant progress in completing trials within the established timelines (Figure 2). For example, among children removed from home, 73% of the cases filed in 2003 were in compliance with the ASFA timeline for trials (105 days), compared to 65% of the cases filed in 2002, 49% of the 2001 cases and 34% of the cases filed in 2000. Thus the compliance rate has more than doubled.

Similarly, for children not removed from home, the percentage of cases in compliance with the timeline to trial or stipulation (45 days) has also increased significantly (Figure 3). The compliance rate was 18% in 2000, 19% in 2001, 51% in 2002, and 59% in 2003. Thus the compliance rate has more than tripled.

Figure 2.
Percentage of Cases Conducting Trials/Stipulations in Compliance with ASFA Timelines When the Child Was Removed From the Home

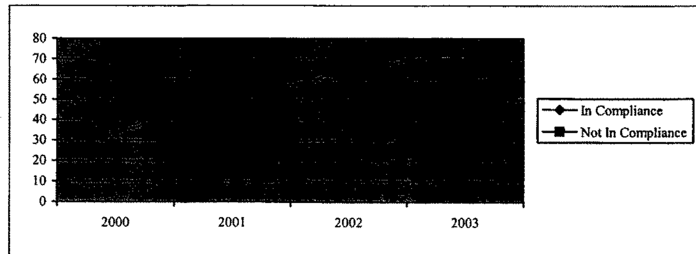
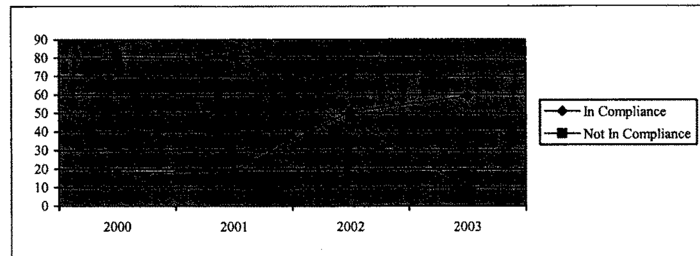


Figure 3.
Percentage of Cases Conducting Trials/Stipulations in Compliance with ASFA Timelines When the Child Was Not Removed From the Home



The Family Court has also seen great improvement in meeting the timelines for moving cases from filing to disposition. Among children removed from home (Figure 4) there was a significant increase in the percentage of cases in compliance with the ASFA timeline for disposition. Sixty one percent (61%) of the cases filed in 2003 were in compliance with the timeline for dispositions as compared to 48% in 2002, 27% in 2001 and 26% in 2000. For children not removed from home, the compliance rate also increased (Figure 5), in fact, it more than doubled.

Figure 4.
Percentage of Cases Conducting Disposition Hearings in Compliance with ASFA Timelines When the Child Was Removed From the Home

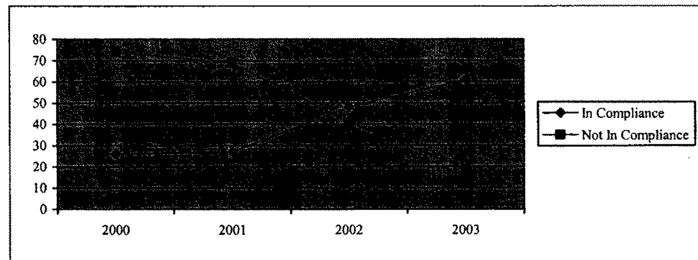
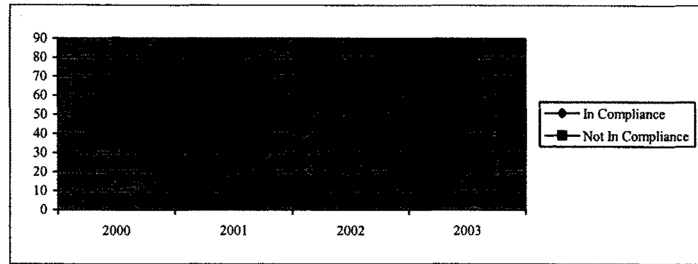


Figure 5.
Percentage of Cases Conducting Disposition Hearings in Compliance with ASFA Timelines When the Child Was Not Removed From the Home



D.C. Family Court Act of 2001-- Transfer of Cases To Family Court Judges

When the Family Court Act was enacted, there were 5,145 abuse and neglect cases pending in the Superior Court. Approximately, three thousand five hundred (3,500) of those cases were in the review stage and were assigned to judges not serving in the Family Court. The Act required that these cases be transferred to Family Court judges or meet the criteria outlined in the Act for retention by non-Family Court judges by the end of the transition period.

At the end of the transition period, October 4, 2003, all abuse and neglect cases assigned to judges outside the Family Court were transferred to Family Court judicial officers, with the exception of those cases which met the specific exemption criteria in the Act. As can be seen in Table 1, below, 3,255 cases were transferred to Family Court judges, primarily magistrate judges, 182 were closed prior to transfer, and 34 were retained. Currently, 25 cases are retained by non Family Court judges in accordance with the Act.

Table 1.
Status of Cases Assigned to Judges Outside the Family Court at Start of Transition Period

[illegible]	[illegible]	[illegible]
Cases Transferred to Family Court Judges	3,255	94
Cases Closed by Judges Outside Family Court Prior to Transfer to Family Court	182	5
Cases Retained by Judges Outside Family Court	34	1
Total Number of Cases Assigned to Judges Outside Family Court	**3,471**	**100**

D.C. Family Court Act of 2001—One Family/One Judge

Under the one family/one judge approach, a single judicial officer or judicial team handles all cases involving members of the same family. The types of cases that may be heard by a single judicial officer or judicial team include: dissolution of marriage, paternity, child support, custody, juvenile delinquency, civil domestic violence, mental health and retardation, abuse and neglect, and adoption. The cases remain before the same judicial officer or judicial team until they have been finally resolved; e.g., the same judicial officer or judicial team retains abuse and neglect cases through a permanency disposition by adoption, custody or guardianship.

Given the volume and broad range of cases filed in the Family Court, the Court, in consultation with the Office of the Corporation Counsel (OCC) and the Child and Family Services Agency (CFSA), designed a four-stage implementation strategy for the one family/ one judge case management approach, beginning with Phase I, in June 2002 and ending with the completion of Phase IV, in January 2004.

In Phase I, which was initiated in June 2002, each judicial team became responsible for all case management in their new abuse and neglect cases following the child's initial hearing. This included any subsequent actions arising out of the abuse and neglect case such as guardianship, termination of parental rights, custody, adoption, or civil domestic violence, as well as the coordination of neglect cases involving siblings. Beginning on March 1, 2004, the Court vacated the requirement that only adoption petitions arising out of abuse and neglect cases filed after June 2002 be heard by the same judicial team, so the one judge/one family approach applied to adoptions regardless of when the abuse and neglect petition was filed. This decision has expanded the one judge/one family approach in adoption cases beyond what had been contemplated in the Transition Plan.

During Phase II, which was initiated in January 2003, the Court began consolidating other related cases involving families, such as child support and post disposition juvenile cases before the same judicial team responsible for the original abuse and neglect case. Phase III of implementation began March 2003. In this phase, related cases that did not arise out of the abuse and neglect case, such as domestic relations or mental health cases of immediate family or household members, were reviewed for possible assignment to the same judicial team managing the original abuse and neglect case.

Phase IV, the final phase of implementation, was due to begin in June 2003. Prior to June 2003, the 10 judicial teams, which consisted of a judge and a magistrate judge serving abused and neglected children were expanded to include assistant corporation counsel. The expectation was that by the end of the transition period, social workers would also be assigned to each judicial team. After a trial period in which some social workers were assigned to a judicial team, the implementation plan was modified at the request of the Child and Family Services Agency (CFSA). Instead of assigning social workers to judicial teams, the Court, in coordination with CFSA, began assigning cases of abused and neglected children to social workers on a geographic basis. Thus, beginning in January 2004, judicial teams consist of a judge,

a magistrate judge, and an assistant corporation counsel. It is anticipated that the geographic assignment will ensure that the team will have available to it a familiarity with the resources in a given community and this will lead to improved services for children.

To assist in the identification of related family cases at intake, three case coordinators review all new abuse and neglect case filings. When related cases are found, the case coordinators present that information to the judicial officer handling the case that initially brought that family to court. Decisions about how to schedule hearings in related cases are left to the discretion of the judicial officer. If appropriate, hearings in multiple case types may be heard at a single hearing or separate hearings may be scheduled.

Judicial Resources In The Family Court

The D.C. Family Court Act authorized the assignment of up to 15 associate judges. Twelve associate judges and eight magistrate judges were assigned to the Family Division prior to enactment of the Family Court Act. Three associate judges and nine magistrate judges have been appointed since passage of the Act.

The Chief Judge appointed the first five magistrate judges on April 8, 2002, under the expedited appointment procedures provided in the Act. In October 2002, four more magistrate judges were appointed pursuant to the Act. Three associate judges were appointed to the Family Court in the fall of 2003.

Currently, 15 associate judges and 16 magistrate judges are assigned to Family Court. On January 31, 2004, Judge Nan Shuker became the first associate judge to leave the Family Court, when she was appointed to senior judge status. Judge Fern Saddler replaced her in the Family Court. Magistrate Judge Lee was reassigned to the Criminal Division in January 2004. Magistrate Judges Epps and Brenneman were assigned to Family Court as replacements for Magistrate Judges Macaluso and Byrd who were appointed Associate Judges in 2003. As is the case with all judicial officers currently assigned to the Family Court, all newly assigned associate judges and magistrate judges meet or exceed the educational and training requirements for service in the Family Court.

In addition, Judge Arthur Burnett and Judge Nan Shuker, both senior judges, assist the Family Court by presiding over a portion of the neglect and adoption caseloads. Prior to becoming senior judges, both Judge Burnett and Judge Shuker had served extensively in the Family Court where they presided over adoption cases.

Length of Judges' Terms on Family Court

Associate judges currently assigned to Family Court have certified that they will serve a term of either three years or five years depending on when they were appointed to the Superior Court. Judges already on the bench when the Family Court

Act was enacted are required to serve a period of three years. Judges newly assigned to the Family Court are required to serve a term of five years. Based on the terms of required service, six associate judges, including the presiding and deputy presiding judges of the Family Court will be eligible to transfer out of Family Court during 2004. An additional five associate judges will be eligible to transfer in January 2005. The process of identifying associate judges interested in transferring into Family Court who have the educational and training experience required under the Act to serve has begun. In addition, associate judges who are interested in serving but do not have the requisite experience are being encouraged to pursue appropriate training.

Training And Education

The Family Court Act requires the Chief Judge, in consultation with the Presiding Judge of the Family Court, to carry out an ongoing interdisciplinary training program in family law and related matters for Family Court judicial and non-judicial staff, as well as for attorneys who practice in Family Court. To assist in this effort, a Training and Education Subcommittee of the Family Court Implementation Committee was established in February 2002. This interdisciplinary committee, which oversees Family Court training, consists of judicial officers, attorneys, social workers, psychologists, and other experts in the area of child welfare.

Family Court personnel took advantage of a number of training opportunities in 2003. Immediately upon appointment, the three new associate judges participated in an extensive, six-week training program. Training was provided in three categories: (1) topics specific to issues involving children and families; (2) guidance on how to conduct court hearings in cases of children and families; and (3) general and administrative topics.

In addition, all Family Court judges, magistrate judges, and senior managers participated in the annual Family Court Interdisciplinary Training program in November 2002 and November 2003, entitled "Systems of Care" and "The Family Court, DC Agencies, and Communities: Partners in Education," respectively. The training was attended by more than 300 invited guests including judges, social workers, attorneys, court staff, non-profits and other community stakeholders.

Family Court judicial officers also participated in a two day training on mediation presented by the Court's Multi-Door Dispute Resolution Division and attended courses sponsored by the National Council of Juvenile and Family Court Judges (NCJFCJ) on the Role of the Judge in Neglect Cases, Evidence in Juvenile and Family Court Cases, and the Judicial Response to Abuse of Alcohol and Other Drugs by Parents and Children, and the NCJFCJ annual conference on Family Court.

The Presiding Judge continues to conduct weekly lunch meetings for Family Court judicial officers to discuss family matters and hear from guests invited to speak about a variety of topics relating to the Family Court.

Twice a month, the Counsel for Child Abuse and Neglect Branch (CCAN) of the Family Court, which oversees the assignment of attorneys in child welfare cases, facilitates brown bag lunches on topics of importance to the Family Court for attorneys who represent abused and neglected children and their parents or caretakers. During 2003, CCAN sponsored more than twenty seminars. The series employed the skills of a number of stakeholders involved in the child welfare system and was designed to be interdisciplinary in nature.

In addition to these sessions, the Training and Education Subcommittee has established a monthly training series on topics related to the Family Court for judicial officers and all stakeholders in the child welfare system. The 2003 seminars included the following: "The Best Interests of the Child: the Legal versus the Psychological Perspective"; "MAPT Training and Development: The District's Multi-Agency Planning Team Process"; "Forensic Assessments: Juvenile Evaluations and Competency Issues"; "Immigration Issues in Family Law Cases"; "Mental Retardation and Developmental Disabilities Agency-Overview, Treatment and Transition"; "Understanding Interdisciplinary Assessments and Evaluations of Children and Youth"; and "Cultural Considerations Diagnosing Children and Youth". Each seminar was well-attended with more than 50 participants from all parts of the child welfare system.

Family Court non-judicial staff also participated in a number of training sessions provided by the NCJFCJ including "A Forum on Family Courts" "Drug Court" and the "Child Victims Act Model Court All Sites Conference". Other training included "Caseflow Management in Family Court" sponsored by the National Center for State Court; The "Child Welfare Data Conference" sponsored by the Children's Bureau of the Department of Health and Human Services; "Access to Justice for Children" the annual "Child Support Conference" sponsored by the National Child Support Enforcement Administration, and training on the Court's new Integrated Justice Information System.

Case and Data Management in the Family Court

The Court made significant progress in development of its integrated case management system (CourtView) during 2003. The first phase of the court-wide integrated system (IJIS) was the development of this fully functional system for the Family Court to perform all aspects of case processing, such as Case Management, Financial Accounting, Case Initiation, Scheduling, Management Reporting and Docketing. Once complete, the system will allow the Court to store and retrieve data electronically as well as electronically exchange vital information with outside agencies with minimal effort.

In August 2003, the Family Court began using CourtView to process adoptions cases, abuse and neglect cases, and juvenile delinquency cases. In addition, juvenile probation cases in the Court's Social Services Division and mediation cases in support of Family Court operations in the Court's Multi-Door Dispute Resolution Division began to be processed in IJIS. In December 2003, additional Family Court case types including domestic relations, mental health and mental retardation, the Marriage Bureau and the Council for Child Abuse and Neglect began processing cases in IJIS. Paternity

and Support cases, currently processed through a system owned and managed by the Office of the Corporation Counsel (OCC), remain outside the Court's integrated justice system. However, discussions are ongoing with the Child Support Enforcement Division of the OCC to bring these cases into CourtView.

Court Interfacing Efforts with CFSA

In early 2003, the Court established an electronic interface with FACES, CFSA's case management system. The interface allows the Court to share abuse and neglect case and party demographic data, a schedule for future hearings, judicial assignments and attorney data with CFSA. The origin of this data was the Court's juvenile and neglect case management system JISRA, which was used to provide CFSA a batch file daily. As part of the initial implementation of CourtView, in August 2003, the interface was upgraded to allow for a more timely exchange of data as well as a more focused set of data based on CFSA's specific requirements.

During the collection and validation of requirements for CourtView in mid-2003, the Court and CFSA identified additional opportunities for exchange such as complaint forms, court orders, and social worker reports. Using these requirements as a basis for collaboration, the Court and CFSA meet monthly to discuss options for fulfilling these needs through the Court's own facilities such as enhancements to the CourtView application, e-filing, web access, and email. The Court is also investigating the use of the City's data sharing initiatives as a means of satisfying these needs.

ASFA Reports

The IJIS implementation team is working with the Court to develop and validate approximately 16 separate reports the Court will use to monitor its compliance with the Adoption Safe Families Act and the Family Court Act of 2001 and to report on performance outcomes. These reports are comprised of data converted from the Court's JISRA, TDM-Adoption, and Interim Database legacy systems as well as data collected through the CourtView integrated case management system application.

As indicated above, all of the Family Court units, with the exception of Paternity and Support, are using the CourtView system to fulfill key elements of the Family Court Act such as One-Family One Judge. All data elements necessary to monitor compliance with ASFA are being captured in the CourtView application. The Court uses the Crystal Reports tool to extract the data from CourtView for monitoring and reporting purposes. The Court is in the process of validating the accuracy of each report to ensure the integrity of the reporting process.

Family Court facilities

During 2003, significant progress was made in implementing the interim Family Court space plan. The current status of capital facilities and space projects in support of the Interim Family Court is detailed on the following page:

Building B, Phase I Renovation

During November 2003 the Phase I Renovation of Building B was completed. The Small Claims and Landlord-Tenant Courts were relocated from the Moultrie Courthouse to the newly completed space. Social Services offices in the building were also consolidated in preparation for Phase II, renovation of the second floor.

New Interim Hearing Rooms

Four new temporary hearing rooms were constructed to replace those closed by Building B, Phase II renovation. Three hearing rooms were constructed on the Indiana level of the Moultrie Courthouse. A fourth was constructed on the second floor of Building A.

Family Court Facilities – JM Level of the Moultrie Courthouse Building:

The General Services Administration (GSA) awarded a contract for construction services for the Family Court Interim Consolidation on the JM level of the Moultrie Courthouse. Upon relocation of the Small Claims and Landlord-Tenant courts to Building B, staging and demolition activities commenced in December 2003. Construction is scheduled to be completed by mid-July 2004, with occupancy scheduled for the end of July 2004. As of mid-April 2004, construction is on schedule.

Use of Alternative Dispute Resolution In Family Court

Alternative Dispute Resolution (ADR) in the Family Court is provided through the Court's Multi-Door Dispute Resolution Division. During 2003, approximately 90% of all abuse and neglect cases were referred to the Child Protection Mediation Program, consistent with the mandate in the Family Court Act to resolve cases and proceedings through ADR to the greatest extent practicable and safe. During the year, 726 children, in 390 families, were referred to this mediation program. Forty-five percent of the mediations resulted in a full settlement (the issue of legal jurisdiction was resolved and a case plan developed). This is a positive result for 372 children in that there is a plan and they do not have to go through the emotionally challenging process of a trial. In 35% of the mediations, a partial settlement was achieved, (a case plan was developed even though the issue of legal jurisdiction was not resolved). Again, good news for 269 children in 148 families. Thus more than more than ¾ of those surveyed were pleased with the ADR process, the outcome and the mediators.

Collaboration with CFSA and other Child Welfare System Stakeholders

The Family Court's ability to accomplish its mission -- provision of quality services in an expeditious manner -- depends in substantial part on the relationships that exist between the Court and the other child welfare system stakeholders. The Child Welfare Leadership Team and the Family Court Implementation Committee, both comprised of heads of partner agencies, are representative of the initiatives being

undertaken by the Court to ensure that decisions affecting the handling of cases involving children and families have the broadest possible input. In addition to these two committees, the presiding judge of the Family Court meets bi-monthly with the Director of CFSA and the Director of the Department of Mental Health in an effort to resolve any interagency problems and to coordinate services that affect the child welfare cases filed in Family Court. Together, the Court and these agencies are working collaboratively to strengthen and improve the services we provide to children and families in the District of Columbia. There are two recent initiatives that are examples of the benefits gain from such collaboration, the Family Treatment Court for substance abusing mothers and the Benchmark Permanency Hearing Program for older foster children. The Family Court is also working with CFSA as it moves toward implementing its Facilitated Family Team Conference program.

CONCLUSION

In closing, please let me thank you, Chairman Davis and Congresswoman Norton, for the opportunity to testify before you today to discuss the Superior Court, and more specifically its Probate Division and the Family Court. As with most institutions of government, there have been challenges to face and hurdles to overcome. But by and large the job done by the staff of the D.C. Superior Court is one in which the community can take a great deal of pride. We see the mission of the Court as critically important when dealing with those who, because of youth or mental or physical frailty, are more vulnerable.

I look forward to continuing our positive working relationship with members of this Committee to improve the administration of justice in the District of Columbia. I would be pleased to answer any questions.

Chairman TOM DAVIS. Judge Satterfield, welcome. Thanks for being here.

Judge SATTERFIELD. Thank you. Good morning. And thank you, Mr. Chairman and Congresswoman Norton. Every day a District child is placed in a safe permanent and stable home is a great day for our city. As a result of the additional resources that Congress has provided, as well as the ongoing collaboration with agencies such as CFSA and other District agencies that serve children and families, I believe we are able to say that we have more and more great days in the District of Columbia. When it comes to our family court, and when it comes to abused and neglected children, we focus on four things, safety, permanency, due process and timeliness.

When we have implemented programs and initiatives, we have implemented them with these areas in mind. For example, in terms of safety, we conduct prompt and more detailed meaningful emergency hearings when children are removed from their families, not simply to talk about placement issues, but also about the services that the children need and the services for the family. In cases where mothers are substance abusers, they now have the option of remaining with their children but in a safe environment through our Family Treatment Court Program, an environment through which they can learn to parent their children as well as learn how to maintain their sobriety.

In terms of permanency, we have increased our compliance with conducting timely permanency hearings. In cases of neglected children filed in 2001 and 2002, we show a compliance rate of 75 to 80 percent of the cases had permanency hearings on time, the majority of those cases had permanency goals set for the children. And so far in our cases that were filed in 2003, they are meeting their permanency hearing goal this year, 86 percent of those cases have had their permanency hearing.

However, we recognize that we have more work to do in the area. We want to make sure that these hearings are of the most quality and that all the necessary findings are being made in order to assure that there is a quality outcome for the child. And we have not met our goal of 100 percent compliance with conducting these permanency hearings timely. That's a goal that may be aspirational for some, but we think it will be realistic for us. Nevertheless, more children were adopted in the District of Columbia in 2003 than in 2002. And more children achieved permanency in 2003, than in 2002. And when it comes to reunification, when it is an appropriate goal in the case, they have achieved reunification much quicker than in the past.

In terms of due process, we try to insure that there is adequate representation for parents, children and youth and we did that by creating panels of qualified attorneys to represent parents and youth and to serve as guardian ad litem. We began our guardian ad litem program with a contract with the Childrens Law Center, a nonprofit organization to provide guardian ad litem services to some of our children, as well as additional training for some of the other attorneys. Standards of practice are in place——

Ms. NORTON. Could I interrupt you, Judge Satterfield? Do we have testimony from you here.

Judge SATTERFIELD. It is incorporated with the Chief Judge's testimony in one statement.

Chairman TOM DAVIS. One major packet and then they are each speaking individually to it.

Ms. NORTON. Thank you. You can proceed.

Judge SATTERFIELD. Sure. All right. Thank you. We have standards of practice in place for attorneys practicing in the area of abuse and neglect, and the Chief Judge is about to adopt standards of practice for attorneys representing youth in our juvenile court. In addition to parents being notified to attend hearings through the efforts of CFSA, foster parents are now more consistently being notified of hearings and we appoint volunteer advocates in our cases to protect the children.

And finally, in terms of timeliness, there's been a steady decline in the time it takes to resolve the legal issues of whether neglect has occurred. And this has resulted from the increasing judicial resources as well as our child protection mediation program which has resolved this issue in a less adversary manner. We believe that the glue that has helped put all this together has been the implementation of the one judge, one family case management approach. As required under the Family Court Act, this enables the judge to schedule things more timely and to make better decisions because the judge knows more about the family. And also the improved communications with CFSA.

I continue our biweekly meetings with the director of CFSA, and will continue to do so with the interim director who starts next week. We continue our collaboration with CFSA on many promising projects such as the family treatment court, the bench mark permanency hearings for our older children and in terms of assignment of cases geographically and scheduling of hearings. We have started a new operational meeting designed to be not just informational between the agency and the court, but problem solving. And we continue ongoing discussions about enhancing our exchange of information electronically.

In conclusion, I'd like to say that it is obvious to us that we have more to do when it comes to children and families in the District of Columbia and we know that. But we are confident that things will continue to get better. We have disciplined motivated judges and managers and staff in family court that are passionate about the work that they do. We will continue our collaboration with stakeholders, but we truly would like to see each day as a great day for a District's child. Thank you very much.

Chairman TOM DAVIS. Thank you very much.

Judge Lopez, thanks for being with us.

Judge LOPEZ. Good morning, Chairman Davis, Congresswoman Norton.

Chairman TOM DAVIS. There is a button there you push that we can hear you better.

Judge LOPEZ. As you can tell, I am new at this. Good morning, Chairman Davis, Congresswoman Norton. Thank you for the opportunity to testify before you. I will just take this opportunity to highlight some of the accomplishments of the past year or so though I must say in all modesty, I have only been presiding judge of the probate division for the past 4 months. The probate division

was one of the few divisions that piloted the strategic planning process by developing its management action plan [MAP], a very apt acronym since a plan really is a map of what the terrain looks like right now and where we want to head over the next few years.

The probate division MAP process was so successful that the register of wills was asked to give a presentation to all other court managers on how her team went about creating their map. Other divisions are using our process as a best practices model for their MAP development. As an update, the division recently celebrated completion of several milestones in the MAP design to enhance services to the public.

On February 19 and 25, 2004, the staff participated in a customer service training program facilitated by an outside trainer. The program included an open discussion sharing recently received comments from bar members regarding areas in which services provided by the division could be improved. I participated in that program. The division also administered a survey during the period of February 23 through 27 as a key step in the map objective to solicit inputs from probate division consumers regarding probate clerical operations and performance. Completed surveys were received from over 75 percent of the persons assisted in the probate division on the day the surveys were administered.

The results were that more than 90 percent of the respondents agreed or strongly agree that the services they receive in the probate division were courteous and responsive; 95 percent receive assistance within 10 minutes of waiting, and 96 percent reported their visit was a positive experience. In any event, the MAP includes targets for improvement and we will work toward these. The division has held customer service training and will continue in those efforts.

I would like to go back a bit further for a few actions outlining Chief Judge King's written testimony and that demonstrate our responses to the concerns. Effective January 1, 2003 the panel of attorneys that the judges use to select attorneys for appointment as fiduciaries and counsel was reconstituted. It now includes only attorneys who have supplied certification of training mandated by the court. We now have a requirement of at least 6 credit hours of training per year in order for attorneys to remain on the panel. Our Judicial Education Committee has been feverishly working to develop probate practice standards and Chief Judge King has completed the administrative order to make the standards official.

My training plans for this year include an orientation for attorneys and staff to improve their working relationship, an orientation on the new practice standards and evaluative programs focusing on the duties and responsibility of guardians.

Finally, we have begun planning with the probate review committee to establish a task force designed to address the issues that they have raised. I thank you for the opportunity to testify before you today and I present information about recent development in the probate division as well as some of the challenges we face. I will be pleased to answer your questions.

Chairman TOM DAVIS. Thank you very much. Let me start out with a question kind of for everybody, and general question. What

performance goals do you set to gauge the effectiveness of the court? And how do you measure the outcome?

Judge KING. That's an important part of our strategic planning. Obviously timeliness is one important measure. But there are other subtler measures in different divisions of the court, depending on how—depending on the subject matter that's under consideration. In family court, obviously there is always an issue of safety and responsiveness to the child's needs. We are developing measures for those various performance standards, and I hope over time we'll have a much more exact standard. The new computer installation, IJIS system, is also being developed with the goal in mind of being able to give us more easily complete reports that will allow us to measure what we've done and to establish base lines against which we can measure our project progress.

Chairman TOM DAVIS. Everyone confer?

Judge SATTERFIELD. I don't have much to add, other than, one of the things that we are collecting data on and plan to extract from the new system in areas for instance for safety, you know, whether or not there has been any reoccurrence in terms of neglect issue, whether it is the family that the child came from or with the foster family.

Chairman TOM DAVIS. I mean obviously you get another Brianna Blackman you can have the most timely thing, but that's——

Judge SATTERFIELD. Right. Exactly. So we have to measure that. We have to measure the number of placements that children are in, and we're going to be looking at any disruption in the adoptions that have been granted to make sure that we measure that as well. In terms of our older kids, we want to see the number, percentage of our kids that actually, what we call age out of the system come down and we'll measure how we're doing by looking at that percentage over the years.

Judge LOPEZ. Obviously a key factor here is the management action plan and the set of goals that we have developed for each of those goals essentially we have four key actions steps to planning the issues that you raise. The first step will be to determine the existing rate of compliance, at least by December 31, 2003, and we have established that already. And then we are going to review and revise the standards to enhance efficiency through January 2004 and through January 2005. We will publish standards within the probate division as deemed appropriate by register of wills office, at least by February 2005, and then we will monitor and evaluate performance by September 2005 and annually thereafter. The goal is at least to meet 90 percent of the established case processing standards by fiscal year 2005.

Chairman TOM DAVIS. OK. On the probate side, obviously your filing deadlines are critical to tell you if things are going well, aren't they?

Judge LOPEZ. Very critical.

Chairman TOM DAVIS. And do you have like a tickler system in there on these, that dates have to be met by counselors in there that—so you can police the counselors or not?

Judge LOPEZ. One of the difficulties we were having in the past is an antiquated tickling system which will now be enhanced by the new integrated justice information system that we expect to go

live this summer. And that will be the greatest improvement that we will have that we will keep track of 100 percent of our cases.

Chairman TOM DAVIS. I know you're spending—all of you are spending time and money upgrading the court's information technology infrastructure, because ultimately that will give you the best most current information and allow you to police this and you're less subject to human error and the like. Where does your Web site fall into these plans?

Judge KING. We have, up until now, we have been borrowing a Web site hosted by the D.C. Bar, very kindly afforded us that opportunity. Obviously that's been an interim measure because the—they have concerns about some limits on what we can put on. I think the term is shovel wear. But for us it's important large documents such as some of our rules and some of the budgets data and things of that nature. We plan to open our own Web site in September of this year. We've now—we have the funding and we have the project underway and we will be opening our own Web site, which will play an integral part in informing the public of what we're doing and keeping our operations transparent.

Chairman TOM DAVIS. OK. How many judges do you have serving the court in total? And the caseload? Can you divide that up? I know it's gotten a little better, hasn't it.

Judge KING. The superior court, even with recent downturns in caseloads, remains one of the busiest trial courts in the Nation with highest caseloads per judge. We have—at the moment we are passing through 60 active judges on our way back to the statutory cap of 59 judges. That will occur—our next seating of a judge will occur two retirements from now, if that makes sense.

Chairman TOM DAVIS. Is that a statutory cap that——

Judge KING. It is a statutory cap which——

Chairman TOM DAVIS. Set by us or by the city?

Judge KING. By the Congress. We are hopeful that cap might be lifted, not because we want an unlimited number of judges, but because as we stay at the 59-judge level, if vacancies then occur and it takes us 6 months to a year to fill them, we become—it can impose real hardship. So it's really a matter of timing. If we had the cap lifted, we would be able to target the level of 59 in our budget discussions with Congress, but would have the flexibility of making sure that people were ready to take their seats as soon as the retirements or moves occur.

Chairman TOM DAVIS. Why does it take 6 months to a year to get those things?

Judge KING. It is a nomination process at the nominating commission and then it comes to the White House. They take some time to review.

Chairman TOM DAVIS. Is that statutory. Or is that——

Judge KING. It's all statutory.

Chairman TOM DAVIS. So it's our fault.

Judge KING. Of course. It's all Congress's fault. It's not, and this is not in any way—I mean it just—the process takes time.

Chairman TOM DAVIS. Let me ask you this. Then, given that statutory limit, how do you make the determination of how many judges and the staff levels for each division?

Judge KING. Within the division, fortunately I didn't have to start from scratch. There historically has been a sort of a level of caseloads that have dictated sort of rough parameters. The total caseload is 135,000. There are 76,000 civil cases, 32,000 criminal, 8,500 domestic violence, 11 or almost 2,000 family court cases, 2,500 probate cases and 180 tax cases.

We have divided and, in fact, one of the things that I'm faced with as we speak is because of that 59 cap, and because we have committed 15 judges to the family court, I'm going to have to close some calendars in the civil and criminal divisions, which will involve a slight delay, additional delay in processing those cases. Those—but it's based on the caseloads and the types and complexity of the cases is what we try to do, and we are studying integrated case management profiles to make sure that we're getting it right.

Chairman TOM DAVIS. What percent of the criminal cases are pled out at the early stages? Most, 80, 90 percent.

Judge KING. I can get you the exact percent, but it's something like 90.

Chairman TOM DAVIS. Otherwise, then you'd never have enough time.

Judge KING. We would come to a grinding halt as is true of criminal courts all over the United States.

Chairman TOM DAVIS. Correct. That's interesting. If I were to ask—I'm just asking your opinion. How many judges would you need to get at least on a temporary basis, I mean, to be able to get things back to normal in terms of the docketing and the time sequence and so on.

Judge KING. If we had the—if we had the cap of 62, that would give us the flexibility to maintain our calendars where we'd like to see them. We could work within that—we could work within that parameter.

Chairman TOM DAVIS. Could you discuss some of the community based operations you've established? You have a satellite domestic violence unit. You have community based courts, how they're funded and Federal grant programs that may be available if you're working with those. And can the information technology improvements enhance those provisions to service this community.

Judge KING. Most of these satellite and innovative courts are initially grant funded, although as we find that they are successful in the way that the satellite domestic violence intake center has been successful, we very much hope that they will become regularly funded as part of our operating budget. Our efforts are in a number of areas. The domestic violence one has been an unqualified success.

In fact, we had Mrs. Tony Blair while she was here, visit it as pursuant to her interest in the area of domestic violence. She took away, I think a very good impression of the way it operated. We are working in a number of fronts in the community courts. And the objective there is to promptly and effectively connect the offenders with services that relate to the social and other issues that contribute to criminal behavior, and the objective is to slow down the revolving door and try to keep people from coming back to court.

Those efforts, again, usually are grant funded to start, but then have come in, although the criminal community court is a rearrangement of our existing resources. So the extra resources needed are primarily those at the back end where the services need to be rendered. Additionally drug treatment services, mental health services and the like, many of which come through the city rather than through our direct funding.

Chairman TOM DAVIS. Judge Satterfield said that 86 percent of permanency decisions are made in compliance with the deadlines, right.

Judge SATTERFIELD. That's of cases that were filed in 2003. The cases that were filed in 2001 and 2002 are at 75 to 80 percent in terms of the timeliness of having the hearing.

Chairman TOM DAVIS. OK. What's the problem with the 14 percent?

Judge SATTERFIELD. Well, the problem with the 14 percent is that we are not getting there. We need to make sure that the judges who get there will be put in place is through some of the resources that you have given us, we now have an attorney advisor office that has two attorneys that initially focus on some of the older cases to make sure that we have those cases in compliance.

They're going to be going forward in looking at the newer cases that are coming up for permanency hearing. Most of our judges may conduct them ahead of time, but they have to make sure that they make timely findings in them and the appropriate findings and they're going to be tracking that and sending them notices when they do not, sending them suggestions when they do not.

With the new integrated system they're going to be able to just go into the computer and look at the court orders on the screen as opposed to pulling the jackets and those kinds of things.

Chairman TOM DAVIS. Well, the Legal Times—and I know it's complicated. You know, I wanted to be a judge. I didn't have the political clout to be a judge so I ended up coming here. The Legal Times reported recently that the number of abuse and neglect filings over the past 2 years has dropped by 43 percent. Can I—what's your perspective on this current phenomenon? Do you think the cases are filed with the court later than they should to be ensured the well-being of the child involved, or——

Judge SATTERFIELD. Well, I think there are some instances where we have felt that cases in the magistrate judges and judges had reported to me and that they felt that a case should have come in the system earlier. I do not know the full explanation for it. I know that investigations are the same. The numbers are the same. The same numbers of call-ins that are being made to see if they're safe. I know that more cases are being treated. Our concern is simply though that right decisions are being made and let's not forgo bringing it to court just so that we won't have a court case. If it's necessary for the safety to protect the children, the child and family, we need to bring it to court.

Chairman TOM DAVIS. What criteria are we using to recruit family court judges?

Judge SATTERFIELD. The criteria are the criteria that's been set out in the statute. They have to volunteer and they have to have

the kind of experience that is appropriate for handling family court cases and agreed to the term requirements——

Chairman TOM DAVIS. Are you getting many volunteers?

Judge SATTERFIELD. Well, we haven't had to seek them out since we started family court in 2000, because we've not had anyone leave except for Judge Shuker, who left due to retirement. And then we had Judge Sattler come in after Judge Shuker. But the judges have been staying beyond their term. We expect that we are going to be seeking volunteers at the end of this year because some of the judges will probably leave family court who have stayed beyond their terms. But we have not actually encountered that yet.

Chairman TOM DAVIS. The D.C. courts have embarked on a very ambitious renovation and construction project, to meet your space needs. Can you give us an update on the status of the project? I'm also really particularly interested in the consolidation of the efforts of the family court and how the renovation project affects that.

Judge KING. We have developed a 10-year space needs plan, master plan for providing for our space needs, which does a couple of things. First, it addresses all of the family court construction needs and we understood during the discussions that led up to the Family Court Act that we had to begin operations, even if we had to operate in the hall. And we've done that. There remain two steps to complete the family court development. First is the step that's underway to bring the public functions into contiguous space on the J M levels and the first floor, Indiana level at the courthouse. That will leave some of the support functions, the clerical functions and office support functions placed in other parts of the court building and court complex.

Over a slightly longer term, we will be adding an envelope to the south face of the Moultrie Building, which will provide the space that will allow us to bring all of the family court functions into a contiguous space. At the same time, the build out of the family court has had impact on some of the other operations. We have, moved landlord tenant and small claims to a separate building. Eventually we will be moving the probate court to its own set of courtrooms and offices. And we will be relocating things so that each of the other branches has the same state-of-the-art contiguous space and public access that we are now developing in the family court. Combined with that is the restoration of the old courthouse, which was the Supreme Court of the District of Columbia back in the early 1800's.

It will become the court of appeals. That is the next stage. That's the next phase. But—and I believe we have submitted this and I will be happy to submit copies if there's any question about whether you have them, a rather elaborate schedule of construction and design phases that all work together, assuming the good Lord willing, the creek don't rise and the Congress provides the funds.

Chairman TOM DAVIS. Well, the first two look good.

Judge KING. The first two I can probably deal with. The third I have no control over.

Chairman TOM DAVIS. Judge Lopez, I know you have only been there a short time. But the reports in the Washington Post and other information provided to the committee reveal the importance of the court in exercising its power to sanction lawyers and fidu-

ciaries to protect the rights and property of those in the care of guardians and conservators.

What disciplinary action can you take against guardians or conservators for these violations? How often do you take these actions? Were any sanctions imposed in those cases referenced in the Post stories? Was anyone referred to the bar for discipline? I'll just go general and you can—are you satisfied with these sanctions that they are sufficient to deter a disregard for the filing requirements and would you suggest any additional sanctions.

Judge LOPEZ. The sanctions that we have for the attorneys is, No. 1, remove them from the list of attorneys that will be appointed any further cases in the future, in addition, refer the attorneys to bar counsel who then takes on the responsibility for deciding what kind of sanction or discipline to impose. In addition, in some cases and this was one of these that was reported in the Washington Post, I have had the necessity to refer the matter to the U.S. Attorneys Office for Prosecution.

Chairman TOM DAVIS. Do you need any other tools. Do you think that those are enough tools to wake up the bar? In terms of sanctions and so on.

Judge LOPEZ. I believe so. I believe that one of the real difficulties we had was in catching up with the culprits at an early stage, and I think that with our IJIS system, we will be able to catch up with the attorneys and their filing in such a timely fashion that we should not have many more of those problems in the future.

Chairman TOM DAVIS. How about, I mean, you do have contempt authority, right.

Judge LOPEZ. We have contempt authority and when they are in violation of a court order, the contempt authority can also be used as a sanction.

Chairman TOM DAVIS. Has it been used in any of these cases, to your knowledge?

Judge LOPEZ. Yeah. None of these cases has been used because in none of the cases the violations have been from a perspective of contempt of court, but rather a violation of their fiduciary duties and as such, they have been referred to the bar counsel.

Chairman TOM DAVIS. Is this widespread or is this just a few attorneys?

Judge LOPEZ. Oh, it is very few. Very few and right now, I would venture to say probably none.

Chairman TOM DAVIS. So a handful of them give the whole court a bad name basically.

Judge LOPEZ. Essentially.

Judge KING. Mr. Chairman, if I might just add one thing. In response to some of the problems that were highlighted in the press, I issued an administrative order that basically stopped compensation to any of the lawyers who were serving as fiduciaries in—until all of their reporting requirements had been met on a current basis. We are in the stages of revising that so that we're not caught up in punishing trivial infractions or trivial delays. But the objective basically, I think, has been accomplished and will be maintained that if you want to practice law in the probate division, you're going to have to do it on time.

Chairman TOM DAVIS. Judge Lopez, I just have one other question. According to your testimony, about 40 percent of the conservatorship accounts have substantial deficiencies. That sounds pretty high. You know, from my perspective. I didn't do much probate before I came here, but what sort of guidance did the court offer to conservators to prepare conservatorship plans, inventories of accounts? Do you provide anything like the guides that are provided, like the Fairfax County Clerk's Office has a huge handbook for guardians and conservators, the administration of estates, that they hand out that make it pretty clear, forms, everything else. Do you have anything like that?

Judge LOPEZ. Yes, we do. All of the attorneys—all of the attorneys who before they can participate as a fiduciary and appointed, they must take the 6-hour program when we have documented materials booklets that we provide for them on the process and how they must proceed.

Chairman TOM DAVIS. So they go through that and they get all the documents and stuff?

Judge LOPEZ. Yes.

Chairman TOM DAVIS. Do you have enough—is there a shortage of qualified guardians and conservators?

Judge LOPEZ. I don't believe we have a shortage of qualified guardians. And I believe that the most significant thing and what we have been doing is training them so they can understand and appreciate what their duties and responsibilities are and we continue to work on training them in that area.

Chairman TOM DAVIS. How about for the public? Some of the—the stuff I just held up from the Fairfax court is available to the public. This is what the public gets as well. It is a nice policing action, if you will. It keeps them——

Judge LOPEZ. We have had certain brochures that we were assisted in drafting these brochures by counsel for court excellence, and I helped to develop some of those brochures. And in our map, one of these goals to develop a variety of informational materials such as brochures and checklists for litigants and for court users to be sure that we can get enough to all of them as they come and get appointed to the cases.

Chairman TOM DAVIS. I mean, there's never a shortage of lawyers. I mean, we know that. But I mean my question is, you don't think there is a shortage of qualified guardians and conservators and there's people who are really qualified, so we really don't need fee payment increases or anything to get more good people into it.

Judge LOPEZ. I don't see a shortage in that respect, no, sir.

Chairman TOM DAVIS. That's fine. Ms. Norton.

Judge KING. If I might just add, there is one thing. There was, I think in some of the testimony today reference to whether a—there might be a social worker or other professional on staff in order to assist guardians, and particularly nonlawyer guardians. That frankly is not an idea that we have pursued, but it is one that would certainly be willing to consider and we are working closely with the bar. We are, in fact, setting up a task force to look at some of the questions and issues that they have and that will be an opportunity for us to determine if something of that nature might be a helpful remedy.

Chairman TOM DAVIS. Ms. Norton.

Ms. NORTON. Thank you very much, Mr. Chairman.

Let me begin with you, Judge King.

First of all, let me congratulate you and Judge Satterfield for the very considerable efforts. I have seen these efforts from beginning to end. I have seen the court change very substantially and in the process of rebuilding the Family Division from the ground up because the changes are just that extensive. They involve every aspect not only in the distribution of cases but interface with another agency entirely, the CFSA, and not to mention the very complicated work of computerization so that parts of the court talk with one another.

Let me assure you that chairman who has a long history of respecting the home rule and I don't sit to see if we can find problems with the courts. The reason we are having this hearing is because problems have come out. This, of course, as I indicated in my opening statement, was how we learned about Brianna Blackman and let me tell you why I find that troubling as a predicate to my own statement.

I encourage the Congress to let DCPDC take care of itself. The Council, of course, does much more rigorous oversight for what it does. This committee has to do the oversight for the courts.

Now we wouldn't have known a thing about needed changes in the Probate Division if the Washington Post hadn't done our job for us. That is very troubling when it comes to court. But what it does is to turn back to us and say, well, maybe we ought to be rummaging through this court a lot more.

My question to you is, having seen problems with the Family Division first and now with the Probate Division embarrass the courts, frankly, because they became—I mean, Brianna Blackman—I think the woman won a Pulitzer Prize and now we had long, absolutely astounding revelations, absolutely astounding revelations about court oversight of people who were entirely dependent upon lawyers who I can only call crooked, doing everything from stealing money to paying absolutely no attention as members of the bar to what they were supposed to do.

My question to you is whether or not the court is prepared to look at each and every division of the court just as you have now looked at the Family Division and done a magnificent job. Now you are looking at the Probate Division, and I see very substantial changes there. But I tell you, we wake up and see reports about the Criminal Division or the Civil Division. Then, you know, what we do is reduce the confidence of the Congress and the entire court, even if the court does what you have so ably done with the Family Division and now are undertaking the Probate Division.

I want to know whether there's any way for the superior court to self-initiate a look at all of its divisions and send to us in advance a written report about what that self-initiation shows. I am quite beyond probate and family court, because I see that action is under way there. I am now asking the court to be proactive and asking you whether or not such a review of each and every division of the court can be undertaken before the Washington Post—who is always rummaging for stuff like this, because that is their job,

too—having seen what has happened in two divisions then goes looking to other divisions to see if they can find similar problems.

Judge KING. I appreciate the question; and, as a senior administrator, I would obviously want to—I would hope to be engaged in addressing a problem before the Washington Post gets to it. I am very hopeful that the strategic planning process that we are engaged in now will do just that.

Ms. NORTON. I notice that in your testimony. Does it do a top-to-bottom review, including whether the whole thing ought to be reorganized?

Judge KING. It is top to bottom and back again.

I would point out we did do a thorough review and revision in the Civil Division 10 years ago that was on the magnitude of the family court reauthorization. The Criminal Division is now under study.

Ms. NORTON. Is that how we got the review of the Civil Division? Was one of the outcomes of that the alternative dispute resolution?

Judge KING. Correct. That was one of the initiatives.

Another principal one was that we went from a master calendar system to individual calendars, and the result was that we took a year out of the delay from filing to trial in civil cases on the average, and we reduced the backlog from 30,000 cases down to a more or less current level of 8,000 to 10,000.

Ms. NORTON. This is quite extraordinary, but it was done on your own initiative. I know, of course, about the ADR as being one of the best of the country and a real model for the country.

Judge KING. That's correct. I certainly hope we can bring that same level of attention to whatever we find in the Criminal Division as well. We are looking at case management approaches. We are working closely with other city agencies and other justice agencies to see where we can improve operations there.

Ms. NORTON. Civil Division has highly paid members of the bar watching the court. The Criminal Division, the Probate Division may not be in the same position as other divisions of the court. In any case, I appreciate what you have said because I think proactive work on the court is perhaps the most effective.

I am sorry, Judge Lopez, is there something you wanted to add?

Judge LOPEZ. No, ma'am.

Ms. NORTON. Judge Satterfield, perhaps you can explain what looks like a discrepancy in the report of the GAO on an issue that I indicated was of some interest to me; and that is, you know, flowing from Brianna Blackman, we are particularly concerned with foster children, the most unfortunate children in any society, children without any parents.

Now according—I am just trying to reconcile what the GAO report said. Timely permanency hearings were held for 25 percent of the cases in 2001. On page 9, it says, in 2001, 80 percent of the cases had a permanency hearing or were dismissed. That is a huge discrepancy, and I wonder if you could explain it. This one is from—the rest of your sentence is 75 percent of the cases had a permanency hearing or were dismissed within the 425-day deadline. Now, you know, maybe this is just a statistical—but I would like to know how you would explain that difference.

Judge SATTERFIELD. Part of the data that GAO analyzes is partial data, cases that were filed in 2002. They did their report last year, mostly in the fall of last year, when they completed the data collection. In this instance, this is a fluid situation where every day a case is coming up that requires a permanency hearing or the data was not complete due to no fault of anybody, just by the fact that the report had to be completed and due to Congress in January of this year.

We have reported in our family court annual reports our complete data for each year, 2001 and 2002. I know that the source of some of the information that GAO used was from the Council for Court Excellence, and they are coming out with their report soon, which I think is going to have another complete picture of how we are doing in terms of handling the timeliness of the hearing as well as in terms of having quality permanency hearings.

Ms. NORTON. In the GAO report, 55 percent had permanency hearings. And 55 percent in September—I don't know what that means. Month of September or by September 2002, where you say 75 percent. And in 2002, 75 percent. I mean, I don't know. We got to get on the same page with these statistics so that they are using the same calendar year or same fiscal year or whatever.

Judge SATTERFIELD. They had to stop collecting data in the middle of the year. So not all of the 2002 cases that were due permanency hearing, they had not occurred because it wasn't required yet. Once we look at the complete data—and I think the Council for Court Excellence report is going to add some clarity to this as well as the chief judge.

In response to the GAO report on that point, we wrote a letter that's attached to the GAO report and gave our view trying to clarify that information that was listed on that page. I see where the concern is and how it is listed on that page in terms of the chart, but we believe that was partial data in that the—what we were reporting in our annual report and what you will see in the CCE report truly reflect how we're doing in terms of having timely hearings, and it will be up for those years in the 75 to 80 percent range of having timely hearings.

Ms. NORTON. So timeliness is not a problem?

Judge SATTERFIELD. We are not 100 percent.

Ms. NORTON. Nobody is 100 percent. If, in fact, your own figures are the current ones, you are very close to where—it was a B if you were undergraduate.

The GAO talks about permanency hearings within 12 months, and in your testimony you said it had their hearing within the 14 months' statutory deadline. Explain that difference.

Judge SATTERFIELD. The law requires that we have a permanency hearing within 12 months of a child being placed in foster care. Under the District law, if the child is placed foster care, you add 60 days to that because the law requires that you add 60 days.

Ms. NORTON. Say that again, please.

Judge SATTERFIELD. Child is deemed to have been placed in foster care 60 days after the child had been removed from the home and then you start counting the 12 months.

Ms. NORTON. Who said so?

Judge SATTERFIELD. The law. The statute.

Ms. NORTON. Let me ask you about what was of particular concern to the Congress and that was the relationship between CFSA, child family support, and the court. In the testimony at page 17, I can't get a sense of where you are. You say you have established electronic interface. You say that you found additional opportunities for exchange of information. And I don't know whether this is a work in progress or whether substantial interface occurs and I can press a button if I am a caseworker or I can press a button if I am a judge or have my clerk do so and find out all the information. How close are you to completing computer interface with CFSA?

Judge SATTERFIELD. I wish we could press a button, too, but we are not there. We have to work with the requirements of the District Safe Passage Act because they are coming up with the system that will sort of warehouse for all the information to come into.

But what we have done to enhance our ability with CFSA to exchange information electronically, we have already been giving them schedules of the hearings electronically and giving them information such as that. They scan their orders into their system—our orders into their system. What we are working on is working on e-filings so their orders can be sent to them. They can send us their court reports electronically.

We are working with Office of Corporation Council, but there are impediments there because that office doesn't have the computer—the type of technology and enough power in their computer or their servers in order to work on some of the things we need to do with them. It is taking some time, but we are moving in the right direction and moving forward on it.

Ms. NORTON. I am entirely sympathetic with the computer problem, particularly if you are dependent on the District, because they had to throw out one old system and start all over again.

I do want you to be in touch with my office. I regard—among the things they are using computers for, nothing could be more important than your work; and the Congress places very substantial priority on that. So I wish you would be in touch with us if you think we could be helpful to you.

Judge SATTERFIELD. They have always been at the table trying to increase our exchange of information and not to delay. They are also part of a larger system that is being built in the District.

Ms. NORTON. The problem is with not with CFSA. It is probably above their pay grade if they are trying to get into the system. You and they are joined at the hip on this issue, so it may be someplace else trying to hook in various parts of the D.C. government.

Judge KING. If I might, Congresswoman Norton, two things that we are doing, we are doing the best we can, regardless of the environment that we are in. First, in choosing our IJIS contractor, we chose as universal a platform as we could, in other words, so that whatever the District ended up developing we would have a relatively easy time connecting in and sharing data.

The other thing is that we have piggybacked on a new system on the criminal justice side, a justice information exchange system and allowed CFSA to use that.

Ms. NORTON. Is that temporary?

Judge KING. Temporarily—and that is successful. They have become one of the heaviest users of that system because it provides a way of sharing data.

Ms. NORTON. That is excellent, trying to find another way to do it. Appreciate you trying to get around the usual bureaucratic barriers.

I have a special interest in one subject, and that is drug abuse. Drug abuse, often minor drug crimes, that is to say crimes that do not involve violence, are chiefly responsible for the filling of the courts, particularly of black men of color and now—increasingly now black women, who are often the guardians of these children.

History will write—the mandatory minimums, thank goodness we don't have those in the District of Columbia. We have our own system of judging how much time will be spent. But history will write that the Congress of the United States is chiefly responsible for the fact that 75 percent of African American children are born to single women and increasingly other families are involved in the same cycle. It is one of the crimes of our age.

There are a huge number of women who are entering the system, and those women are almost entirely there because of drug abuse, often because they are related to some man, I must say, but often to get money, because they are ill-equipped to work and live in inner cities where the only job is running drugs.

Now, therefore, I am particularly interested in this family treatment court. GAO found that one of the chief barriers that the family court faced in meeting its goals was the shortage of substance and treatment services. I would like to know what this shortage—whether you are dependent upon the city's treatment services. How do you get a mother whose chief problem with her child is neglect because of drug abuse into the system and whether this family treatment court gets you any priority when the District is completely overrun with calls for treatment, as are most cities in the United States.

Judge SATTERFIELD. The funding for family treatment court, which has been in existence for about a year now, consists of—we have a grant that provides for—the family treatment court coordinator is hired by the court, but this program is in partnership with CFSA. They have provided money.

Ms. NORTON. Excuse me. This is money you have applied for from the Federal Government?

Judge SATTERFIELD. Yes. Court improvement grant that we had that we are using for our coordinator position. But the actual treatment part of it for the women in the family treatment court and the residential treatment facility, that money came out of CFSA's budget, and they took it to their drug abuse agency, and that is where that is coming from. We have been promised that this program will continue.

Ms. NORTON. You got money for the grant. The grant comes from the Federal Government.

Judge SATTERFIELD. For the coordinator position, the coordinator we have hired to help us administer this program.

Ms. NORTON. I am not interested in that. I am interested in the treatment money. Is there money for treatment that is independent from the District of Columbia?

Judge SATTERFIELD. No.

Ms. NORTON. My God.

Judge SATTERFIELD. Just yesterday—we have a juvenile drug court, and we use the Psychiatric Institute of Washington to do detoxification for our juveniles, and they have been receiving funding from APRA to do that. I received a call yesterday saying that's going to stop in May, and that impacts on us getting the youth in the juvenile court—most of them test positive for marijuana and/or PCP—to get them started and clean so that they come in with a clear mind to the juvenile court and go through the treatment process. That is always something that is an obstacle in trying to get this service in place in addition to getting mental health evaluations in place sooner and therapy.

Ms. NORTON. I am going to say what I said to Judge King: You ought to look proactively at things before somebody decides that they got to rummage through the court's affairs. You are already beginning to see this happen, not to the court but to Oak Hill, and that is going to lead them right back to the court. Because what they found was that many of these children have drug abuse problems, and somebody's going to look at their commitment and somehow drag the courts into this. And we know the problems have originated right there as well.

But I want to know, in light of what you have just said, that essentially you just got dibs on the District system, how is this family treatment court able to operate and to achieve results and indeed what have been the results. I mean, not how many people have gone through the system but what kinds of successes, how many people get in, do they get in immediately, what is the wait—that kind of information would be helpful.

Judge SATTERFIELD. I can give you some of that now.

We just started having a waiting list now. It took awhile for the program to get up to speed. We were a little concerned in the beginning that we weren't getting enough mothers because we knew that there was a huge substance problem.

Ms. NORTON. What happened? You didn't get the money for the coordinator?

Judge SATTERFIELD. It wasn't the money issue. It was just parents choosing to come in. We would say, you can stay with your child if you come in this program; and some parents would say, take my child.

Ms. NORTON. Why would they say that?

Judge SATTERFIELD. Because they are not ready to cure their illness.

Ms. NORTON. Well, then they said the right thing.

Judge SATTERFIELD. And we would take their child. But the ones who have agreed and saw the benefits of it, now we have a waiting list.

Ms. NORTON. Is there counseling so the mother understands what she's doing and it is hard for everybody to beat a drug problem?

Judge SATTERFIELD. They go through a rigorous presentation in the family treatment court when we deem that case to be eligible.

Ms. NORTON. A child is taken on a temporary basis? She may lose the child altogether.

Judge SATTERFIELD. The child is removed—even when the mother is going into the program, we remove the child initially while the mother goes through the detoxification.

Ms. NORTON. I'm talking about the mother who says, you have to take my child because I can't——

Judge SATTERFIELD. We take the child and we go through the case like any other case in terms of moving toward permanency.

Ms. NORTON. You have to do it. But——

Judge KING. Before you—as you will be leaving shortly, on the topic on funding for drug treatment, all of our community court efforts depend on a similar—ultimately, on the city's supply of drug treatment options; and we are very concerned that continue because, obviously, we can't——

Ms. NORTON. Because now we don't have a sense of what the call on drug treatment will be, because women have only gotten to the point where they—this is something you really need to draw to our attention. Of all the parts of the system—and I don't know how the District decides on priorities. But of all the parts of the system, double damage is done here, because you have the drug-addicted mother and then you have the possibility of a child losing a parent—I should say triple—and then going to a foster home, and we don't have enough foster homes. This is a terrible thing to have happen to a child, although I must applaud what you are doing.

This women isn't ready. We are not adding this child to the list of casualties of that family. This child has to be given the best possible chance.

But what interests me—and when I say proactive, I mean bring things also to our attention early. For example, if in fact there developed—let me ask you first, you are able to get these mothers treatment right away.

Judge SATTERFIELD. Right away, because they immediately go from detoxification into the residential program.

Ms. NORTON. In terms of depending on the District to let you in, the District lets you in right away.

Judge SATTERFIELD. The contract we have for the family treatment court, which is for a total of 36 women throughout the year that the treatment court has been existence, the facility can only hold up to 18 women at a time and up to four children per woman.

Ms. NORTON. That money has been set aside.

Judge SATTERFIELD. That money has been set aside, and we have been told that this program has been obligated for next year.

Ms. NORTON. The court has its own special treatment program for these women?

Judge SATTERFIELD. In partnership with CFSA.

Ms. NORTON. With their own contractor.

Judge SATTERFIELD. Contractor that they hired.

Ms. NORTON. All I am asking then is, don't let this program develop a backlog before you inform me as your representative. If we can somehow—I am also not for fooling around with these women. I am not just saying, here's your second and third time for neglect of a child, and you end up with a Brianna Blackman. But I certainly think that the harm done to going into the foster child system, the extraordinary harm done just to the child—children would

often even prefer to be with a drug-addicted mother. And I am sorry, we can't let that happen, and we certainly won't.

Judge SATTERFIELD. We will extend the invitation to you, Congresswoman Norton and Chairman Davis, to visit the residential facility out in southeast.

Ms. NORTON. That I would like to do. But I think that we got to keep a priority on that. We got to keep the funds there. You say it is only 18 at a time. Does that mean we don't have other people waiting to get in?

Judge SATTERFIELD. We have people currently waiting to get in. Because one of the problems that we do encounter is that there are housing problems for some of the women when they leave, and we want to make sure they have appropriate housing. Doesn't make any sense to have them in that facility for 6 months with their children and only have to remove their children because they don't have adequate housing.

Ms. NORTON. That is another problem that you have to work with CFSA.

Judge SATTERFIELD. Yes. That's the issue that we're working with D.C. Housing Authority, to have adequate housing when the women are ready to graduate out of the residential phase of the program.

Ms. NORTON. Absolute priority it seems to me.

I'm interested in the young people who age out. Everybody is about to lose jurisdiction of these children, and, of course, you hear all these stories, anecdotal, but we know from some of our agencies that these children sometimes end up homeless and the rest. Would you tell us about your so-called benchmark permanency hearing pilot program?

Judge SATTERFIELD. You are absolutely correct. What we see from young people across the country, some are committing suicide or some don't have a home to go to, much like our kids would have a home to come back to when they go out to college or otherwise and some have no support. Because we have about a 20 to 25 percent caseload of children that may age out of the system, we decided to embark on this project that we have seen happen in Cook County in Chicago, IL, where we have benchmark hearings.

We start out with one of our magistrate judges, and it is designed to sit down in a formal setting with the judge and members of CFSA. If mental health is an issue, mental health people are there; if drugs are an issue, they are there; and to really start to develop certain projects with the child that will lead the youth to independence. Even as simple as you come back in 2 weeks with your driver's license or you come back with a banking account, those types of things we are doing with the child in order to improve that. We are asking them to identify someone who can be around when they age out so they can go back to for support, and we start developing a relationship with that person and having that person come to court.

Ms. NORTON. This is so important. Sometimes the State, the District of Columbia, the court, has put hundreds of thousands of dollars into making sure this child emerges whole at 18 or 21, and then it goes away because of aging out.

Let me go through—the chairman is gone for a few minutes. I am interested in your report back on the family treatment court. I want to know not simply how many people go in. I want to know if it takes—if the treatment takes, how many—how successful is the treatment? What is the followup?

You know, it takes me a long time and a lot of willpower not to engage in sweets, because I have a sweet tooth. I can't imagine what it must be to get off drugs.

You have to tell us what you call success. For example, one way to look at a success is a woman who has been free and has had her child for a year and our followup shows there is no abuse and neglect. That seems to me is very important. That's the way you improve a program.

Let me go quickly here. I asked for this, and I would like a report back to the chairman and to me on that question.

I'd ask a similar report back on the ADR. I was very pleased at the way family court is using ADR. If you can avoid formal court proceedings, the better. I'd like a report on—if you don't have these statistics now, are these agreements kept? You can settle the case. If you are a lawyer, you settle the case. You are a member of the bar, keeping an agreement. When you have an agreement, ADR agreement, you are dealing with people at various levels of education, of experience. I'd like you to report back on, again, what is a success on ADR with the family court? Do, in fact, these agreements hold up when lay people have to understand, you know, when you sign this, you are signing a legal document?

Let me go quickly to the probate court. Geez, this was a shock. This is pretty terrible. I appreciate, Judge King, that you handled quickly with the judicial order this matter.

For example, that you have to certify that you have recently checked on a client's health, accounted for the money, no new appointments, if there had been ethical complaints, of course, you always depended upon the register of wills. Register of wills wasn't the best steward reporting to the court. There is concern that people who are dishonest, that work on the margins enough to do some of what was reported in the Post might also say to the court, yes, I'm doing exactly what you say. I'm checking on the client's health. I'm reporting in to the register of wills, etc. Have these declarations, these affidavits, in fact, improved the underlying concern, considering that they are self-declarations and the court can't go around obviously and do an investigation of each attorney? How do you know that what people declare that they have recently checked on their client's health, fully accounted for the money and so forth, is in fact being carried out by members of the bar who were engaged—some of them—in criminal acts?

Judge LOPEZ. As far as the money is concerned, the accounting the conservator must file must be submitted with supporting documentation, bank statements, canceled checks.

Ms. NORTON. The money is clear. I have checked on this person, the health of this person.

Judge LOPEZ. That one depends on the ethics of the individual.

Ms. NORTON. Why shouldn't it depend on the health? Hasn't—for example, isn't everybody entitled, assuming there is enough funds involved, to a physical once a year? You and I get a physical once

a year. Shouldn't an attorney who has responsibility for an adult or a child who can't take care of himself have to submit something?

Judge LOPEZ. I fully agree with you, and one of the things we are exploring is to find a method to do some kind of physical auditing of cases of the guardianships. A variety of suggestions have been made by the bar, and we are going to work with them to find some kind of method that will be satisfactory in order to have some kind of physical audit of the reports of the guardian to fully satisfy ourselves.

Ms. NORTON. There is a limit on what you can do there, and some of it can be spot checking and the rest. I do urge you to look for what you'd look for for funds. You have to have a receipt, and you have to think about what that would be.

But I gave as an example that there has been a physical. That can't be the entire thing, but at least you will know that the person is in good health. I'm not sure that having a family member or friend would do any better. I mean, such people can be dishonest as well, but there are jurisdictions that require you to go there first before you go to training. Do you have preference on that matter, whether it is a family member or friend or a lawyer?

Judge LOPEZ. The statutory requirement is that we give preference to family members with the discretion as to whether or not there are available family members that would be available to perform the function or family members that we can, after interviewing, believe that they will follow through in performing the function, because otherwise we wind up appointing a member of the bar.

Ms. NORTON. What percentage of these cases can be handled by relatives or friends?

Judge LOPEZ. Well, I think 100 percent could be handled by relative or friends if they are relatives or friends that are willing to perform.

Ms. NORTON. No. I'm sorry. I am asking for your results. I am asking for how many of these cases are being handled—what percentage of these cases are being handled by relatives or friends?

Judge LOPEZ. That statistic I do not have, but I can provide it.

Ms. NORTON. If you would, I would appreciate it.

[The information referred to follows:]

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May 6, 2004

The Honorable Tom Davis
Chair, House Government Reform Committee
2127 Rayburn House Office Building
Washington, DC 20515

and

The Honorable Eleanor Holmes Norton
2136 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Davis and Ms. Norton:

This is submitted in response to a number of questions raised during the April 23, 2004 Committee hearing on the Family Court and Office of the Register of Wills, Probate Division of the Superior Court of the District of Columbia. Specifically, what are the goals and performance measures for the Office of the Register of Wills, Probate Division? What are the plans to respond to the concerns regarding the monitoring of guardians and conservators of incapacitated adults? What percentage of guardians and conservators are laypersons? And, what informational material is there available to assist the public in preparing accounts and other filings? As head of the Probate Division, I would like to expand upon the information provided by the Court.

Introduction

The jurisdictional and organizational components of the Probate Division were included in prior testimony of the Court. The Division services an average of 42,000 visitors annually. It reviews and writes recommendations to the judges on the disposition of approximately 6,000 petitions, 2,000 accounts and 1,200 requests for compensation annually. In addition, it monitors fiduciaries to ensure the filing of reports and brings delinquencies to the attention of the judges for action.

Objectives

In November 2003, the Probate Division completed a draft Management Action Plan for the period 2003 – 2006 aligned with the Strategic Plan of the District of Columbia Courts 2003 – 2007, entitled *Committed to Justice in the Nation's Capital.* The draft is under consideration by the Courts' Joint Committee on Judicial Administration. The Courts' Strategic Plan identifies five Strategic Issues, which are: Enhancing the Administration of Justice; Broadening Access to Justice and Service to the Public; Promoting Competence, Professionalism and Civility; Improving Court Facilities and Technology; and Building Trust and Confidence. The Management Action Plan of the Probate Division, referred to as the MAP, includes 15 objectives designed to implement the Courts' goals as defined in its Strategic Plan:

1. Ensure timely processing of probate cases by completing at least 95% of case processing activities within established time standards. **(Underway).**

2. Enhance customer satisfaction by limiting waiting time for services within the Clerk's office of the Probate Division to 10 minutes in 95% of cases. **(Achieved)**.

3. Enhance payment of court ordered compensation awards by collaborating with the Budget and Finance and Information and Technology Divisions to implement an automated payment tracking system through IJIS by October 2004. **(Underway)**.

4. Enhance fiduciaries' compliance with reporting schedules ordered by the Court by implementing an automated tracking system that identifies delinquent reports by September 2005. **(Underway)**.

5. Enhance the effective and efficient processing of *in forma pauperis* (IFP) cases by implementing improved procedures and forms by September 2004. **(Achieved)**.

6. Provide timely and consistent recommendations on the disposition of cases to judges by implementing an electronic database on case precedents for divisional use by June 2004. **(Underway)**.

7. (a) Seek five additional FTE in Auditing Branch to enhance the Division's compliance with performance standards to audit accounts within 75 days and dispose within 90 days of filing by end of FY 05. **(Included in FY 05 Budget Request)**.

   (b) Seek 2 additional FTE in Interventions & Trusts Branch to enhance the Division's rate of compliance with performance standards in monitoring fiduciaries and processing guardians' reports to 95% by FY 05. **(Included in FY 05 Budget Request)**.

8. Enhance access to justice for Spanish speaking court users by creating and disseminating informational materials that explain the probate process in Spanish, i.e., *When Someone Dies, Record Keeping and Filing Dates, Small Estates Proceedings, Guardianship and Conservatorship of Adults, Opening a Probate Proceeding, General Information Concerning Small Estates, Conservatorship Information Sheet,* and *Guardianship of Minors Information Sheet,* by February 2005. (**50% Achieved**).

9. Enhance public access to Probate Division services by creating a general information brochure about the Division, updating existing brochures (*Small Estates, Record Keeping, Guardianships & Conservatorships*) and disseminating these materials to Probate Division consumers and the public by July 2004. (**Achieved**).

10. Enhance public access to Probate Division services by collaborating with the Courts' Web Council and Kiosk MAP Team to provide electronic access to Probate Division informational materials, interactive forms and court records. **(Underway).**

11. Initiate action to ensure fee collection structure in the Probate Division is consistent with and eliminates any disparities in assessments in alignment with National Probate Court Standard 1.1.5 by August 2004. **(Underway).**

12. (a) Enhance Probate Division employees' knowledge of and compliance with Court-wide standards of conduct and customer service by requiring their participation in training by April 2004. (**Achieved**).

    (b) Promote standards of conduct for court-appointed guardians and fiduciaries by collaborating with the D.C. Bar and community organizations to adopt practice standards by FY 04. (**Underway**).

13. Participate in at least two community workshops and seminars annually to increase public awareness and community understanding of probate operations and procedures by September of each year. (**Achieved**).

14. Develop and administer a customer service survey to solicit input from Probate Division consumers regarding probate clerical operations and performance. (**Achieved**).

15. Implement new programs, services and/or adjust operations to address community input received through the Probate Division customer service survey. (**Underway**).

Seven of the 15 Objectives have been achieved as indicated and work on the remaining eight is underway. For the sake of brevity, only the first of the 15 objectives, measures and results will be highlighted.

The first Division objective is to ensure timely processing of cases by completing at least 95% of case processing activities within established time standards. The goals and standards are to provide courteous and responsive service to the public within 10 minutes; to process petitions to open estates within two days of filing and subsequent petitions and motions within two weeks of readiness for disposition; to issue letters of administration within seven business days of filing; to accurately docket and mail orders of the court within one business day of receipt in the clerk's office; to audit accounts within 75 days of filing and dispose of them within 90 days of filing; to process requests for compensation within 30 or 45 days of filing dependant upon whether the source of payment is public or private funds; and to monitor fiduciaries and issue notices within 30 days of any delinquency.

Measures

Performance measures for the provision of services include statistical reports on actual waiting time derived from sign-in logs maintained in each service area and periodic customer surveys. The measures for processing petitions and orders are daily management reviews and random samplings of case processing. The measures for accounts and requests for compensation are monthly productivity reports. The measures for monitoring fiduciaries are random sampling of cases and monthly statistical reports on summary hearings. Automated activity reports will be utilized in the future upon implementation of a new case monitoring system.

Results

Waiting times

Statistical reports indicate a 100% rate of success in servicing the public within 10 minutes in almost all service areas in the Division consistent with the Courts' goal to administer justice promptly. Two exceptions have been in the areas of Small Estates and the Deputy Registers of Wills, wherein the staff performs substantive review of filings and provides advice to the public to facilitate court approval of their petitions. Currently, five staff members consisting of two deputies and three small estates specialists on a daily basis interview an average of 50 people, and in between interviews they write recommendations on the disposition of petitions. Despite the high volume and stressful work demands in these areas, they still have an 89% rate of success in providing service within ten minutes of the public's arrival.

Performance in the Deputy Register of Wills section is negatively impacted by two staffing vacancies. We expect to fill these positions within the next 30 days. The two additional deputies will ease the waiting time and enable compliance with standards at a higher rate.

Customer surveys have provided a secondary measurement for performance of this goal. As mentioned in the written statement of Chief Judge Rufus G. King, III on

April 23, 2004, 95% of participants in a survey administered in February 2004 responded that they were seen within 10 minutes and that the service was courteous and responsive.

Petitions

Approximately 6,000 petitions and motions are filed annually. When the Division has a full complement of deputies, over 95% of initial petitions are processed within two days of filing and subsequent petitions and motions within two weeks of expiration of the response period when they are considered as ready for court action. Action on subsequent petitions must await the expiration of various response periods after notice to interested persons. Each of the petitions requires a written recommendation that is usually adopted by the court. Random sampling indicates that initial petitions are being processed within an average of seven days against the standard of two and letters of administration issued within an average of 14 days against a standard of seven days. Current performance in this area is also negatively impacted by the two vacant positions.

Orders

Approximately 10,000 orders of court are issued annually. Ninety percent of these are entered on the docket and mailed to interested persons, along with letters of administration or instructions to fiduciaries, within one business day of receipt of the orders in the clerk's office. Upon receipt of information that errors in mailings occur, each incident is thoroughly investigated and corrective action is taken as appropriate to minimize the recurrence.

Accounts

Approximately 2,000 accounts are filed annually with an average time from filing to approval of 97 days. Eighty eight percent of the accounts are audited within 75 days and the Court approves 60% within 90 days. The final disposition of the accounts is not within the control of the auditors. It depends upon the timeliness of the fiduciary in filing responses to questions raised during the audit and the timeliness of resolution of irregularities or objections through judicial review. The auditors do, however, take proactive measures to minimize delays even in those areas wherein they have little control.

Requests for Compensation

Approximately 1,200 requests for compensation are filed annually. Forty percent of the total requests for compensation consist of requests for payment from a public fund known as the Guardianship Fund established pursuant to D.C. § 21-2060 (2001 ed.). Pursuant to the Prompt Payment Act, the Court must make these payments within 45 days of filing. The Probate Division processes 68% of these petitions within 30 days of filing to ensure compliance with the Prompt Payment Act. The resulting orders for payment are then sent to the Budget and Finance Division for payment.

Plans are underway to institute a voucher system for attorney payments of compensation from the Guardianship Fund, similar to the system utilized for payments under the Criminal Justice Act. The proposed procedures would eliminate the need for review by the Probate Division auditors as the vouchers would be examined by the Budget and Finance Division and delivered directly to the judges for action. This change in procedure would result in a 40% reduction in requests for compensation being examined in the Probate Division, freeing up time that could be utilized to audit accounts.

Sixty percent of the requests for compensation are paid from assets of estates. Seventy five percent of these are processed within 45 days of filing. These are requests that are not filed with an account. Requests filed with an account are processed simultaneously with the audit of the account.

Monitoring of Guardians and Fiduciaries

The performance in the monitoring of guardians and fiduciaries and reporting irregularities was of particular interest at the hearing. The Division statistics suggest that approximately 86% of guardians and fiduciaries file reports, and 14% are scheduled for summary hearings on the subject of their removal for failure to file reports. In almost all of the cases scheduled for summary hearings, however, the guardian or fiduciary files the required report before the hearing, and approximately 3% of fiduciaries are removed from cases for failure to file reports and other defalcations. Inasmuch as removals of the guardians and fiduciaries occurred in the cases reported by *The Washington Post* last summer, those cases appear to be representative of 3% of the caseload.

The performance against the objective of issuing notices within 30 days of any delinquency has not been measured because of errors in the available data. The errors will be corrected with implementation of a new case management system.

Summary of Results

The success of the Probate Division in completing the foregoing case processing activities within established time standards is as follows:

Waiting Times – 94.5%
Petitions and Motions – 95%
Orders – 90%
Account Audits – 88%
Account Approvals – 60%
Requests for Compensation Guardianship Fund – 68%
Requests for Compensation from Estate Assets – 75%
Monitoring – Undetermined

Plans

The Office of the Register of Wills has been aware of the limitations present in the outdated computer system for many years and has been proactive in its efforts to resolve the problems. In 1999, for example, the Register of Wills initiated a project to obtain funding from the State Justice Institute for a Technical Assistance Grant to perform a requirements analysis and draft Request for Price Proposal (RFP) for a modern case management system for the Probate Division to enable improved monitoring of fiduciaries. The grant was received and the project completed on time and within budget. A consultant from the National Center for State Courts performed the requirements analysis, which was largely incorporated into the Court-wide IJIS program.

In addition to taking aggressive action to upgrade technology, the Division conducted case reviews in an effort to correct and update the data in the computer system. After the Division discovered missing reports and irregularities in accountings and took action to rectify the problems, the *Post* reported the deficiencies in the system.

Implementation of a modern case management system is scheduled within the next month. The goal is to obtain 100% timeliness and accuracy in the issuances of notices under the new IJIS program. The Division will also collaborate with stakeholders to strengthen the substantive monitoring of guardians in accordance with any future established policies.

In summary, the Probate Division has established performance goals and measures and achieves those goals with a high degree of success in some areas, and it is instituting strategies to improve in areas wherein it is weak. The deficiencies in the timely monitoring of reports of guardians will be addressed with the implementation of a modern case management system this fiscal year and through improvements in the quality of the reviews.

Guardian/Conservator - Layperson/Attorney

A review of a sample of fifty cases filed in 2003 and 2004 disclosed that approximately 50% of guardians and conservators of incapacitated adults are laypersons. The sample was extracted from a pending caseload of 1,861 as of December 31, 2003, with approximately 300 cases filed annually.

Public Informational Material

Finally, with respect to the question of what informational material is available to assist guardians and fiduciaries, the Division has a host of material, most of which was recently updated as a part of its Management Action Plan. The Division has available for purchase at a cost of $35.00 a comprehensive manual to assist attorneys and laypersons in

preparing accounts. The manual includes completed samples of all of the various accounting forms and guidelines for their completion.

Information sheets on reporting requirements are mailed to guardians and conservators at the time of appointment. Information on all other proceedings in the Division is available in brochures distributed free of charge and mailed daily by the Division. The brochures are entitled *When Someone Dies, Record-keeping, Guardianships and Conservatorships*, and *Small Estates.* The brochures are available in English and Spanish. With the exception of *When Someone Dies*, they are also available on videotapes in both English and Spanish that may be viewed from a monitor in the Division or borrowed to view off site. Samples of the informational material are available upon request.

The Probate Division is collaborating with others to include as much informational material as possible on the Courts' website scheduled for implementation this summer. That information will include answers to frequently asked questions with a focus toward the layperson.

I have been the Register of Wills, Clerk of the Probate Division of the Superior Court of the District of Columbia since 1988. As a third generation Washingtonian, and member of the District of Columbia Bar since 1980, I am, have been, and will continue to be committed to providing the citizens of the District of Columbia with the highest possible quality of service.

Thank you for your consideration. I will be pleased to respond to further questions as appropriate.

Sincerely,

Constance G. Starks

Ms. NORTON. How are you assuring that the register of wills is doing his or her job? These people report still to the register of wills.

Judge LOPEZ. Yes. Yes.

Ms. NORTON. That person, in turn, didn't always report these results to you.

Judge LOPEZ. The register of wills is the administrative arm of the Probate Division. They have auditors to audit the reports and provide the court any irregularities that appear in the reports, which includes also in the accounting—any irregularities that appear in the accounting that will be reported to the court.

Ms. NORTON. Just—so you are monitoring the register of wills just as much as you are monitoring the lawyers.

Judge KING. If I may add, I know that some of the problems that were talked about publicly were—didn't get through. That is obviously—the entire division has to tighten up on that. Ultimately, at the end of the day, all but one or two of those problems were discovered first by the court. The Post published them, but we discovered them first and were aware of them.

Ms. NORTON. You were aware of them in the order that you issued only after it was reported by the courts. It should have been issued long before the Post got ahold of it, Judge.

Judge KING. Unfortunately, not enough ahead of time to have cured it by the time the Post got ahold of it. My only point is it wasn't a complete breakdown. It was we didn't get to it as soon as we must.

Ms. NORTON. That goes to my question about proactive work.

Judge KING. I couldn't agree more.

The other thing is that the decisions in the probate court are made by judges, not by the register of wills.

Ms. NORTON. I am talking about the information flow. Just as you are dependent upon CFSA, therefore, we had to interface the register of wills to do his job.

Look, one more question. Mr. Chairman wants to get on the next panel. One more question.

What was really so alarming about what the Post reported was their notion that this tight group of lawyers all knew each other, they recommended each other for court appointments, that often these appointments were the only source of the person's practice. One of the judges who got into the greatest trouble was—one of the busiest lawyers appointed 70 times, $118,000 in fees, rarely disciplined, etc.

Is this work being spread out so that folks are not asking for recommendations from other folks who are scratching each other's backs? And why should it simply go to folks who need the money in order to be in practice at all? Why shouldn't it be spread out among lawyers of all kind, including some who are very busy but who regard this as important work to be done? And what are you doing to make sure you diversify the bar that does this work?

Judge LOPEZ. We maintain that fiduciary list of attorneys that are qualified for appointment of cases.

Ms. NORTON. You insist upon training now.

Judge LOPEZ. Correct. The way we are going on appointment is essentially going alphabetically down the list. Every so often we

will skip the list and go to another name, simply where we have a case that has certain complexity that a certain attorney is prepared to handle that complexity. Otherwise, we just go alphabetically on the list.

Ms. NORTON. So it means that you won't get reappointed for a long time then?

Judge LOPEZ. Exactly.

Ms. NORTON. Mr. Chairman, thank you very much for your indulgence.

Chairman TOM DAVIS. Thank you.

I want to thank this panel for your indulgence. I think we covered a lot of ground on this. We appreciate the job you are doing and look forward to continue to work with you.

Call up our second panel. We have Cornelia Ashby, the Director of Education, Workforce and Income Security Issues, from GAO; Mr. Elliott Hall, chairman of the Council for Court Excellence; Rhonda Dahlman, esquire, the Legal Counsel for the Elderly, American Association of Retired Persons; Mr. Nicholas Ward, esquire, former chairman, Guardian and Conservator Committee, the District of Columbia Bar Association; and Michael Curtin, esquire, the former deputy register of wills, member of the District of Columbia Bar Association.

It is our committee's policy that we swear all witnesses in before your testimony. Thank you for sticking with us. You can see from some of the questions I think you know where our anxieties are.

[Witnesses sworn.]

Chairman TOM DAVIS. We have Ms. Ashby. We will start with you and give your report. We try to stay to 5 minutes. Obviously, we didn't stay to our 5 minutes on the questions, but we are a little lax. So thank you for your work on this, and I will start with you.

STATEMENTS OF CORNELIA M. ASHBY, DIRECTOR, EDUCATION, WORKFORCE AND INCOME SECURITY ISSUES, U.S. GENERAL ACCOUNTING OFFICE; ELLIOTT S. HALL, CHAIRMAN, COUNCIL FOR COURT EXCELLENCE; RHONDA DAHLMAN, ESQUIRE, LEGAL COUNSEL FOR THE ELDERLY, AMERICAN ASSOCIATION OF RETIRED PERSONS; NICHOLAS WARD, ESQUIRE, FORMER CHAIRMAN, GUARDIAN AND CONSERVATOR COMMITTEE, DISTRICT OF COLUMBIA BAR ASSOCIATION; AND MICHAEL F. CURTIN, ESQUIRE, FORMER DEPUTY REGISTER OF WILLS, MEMBER, DISTRICT OF COLUMBIA BAR

Ms. ASHBY. Thank you, Mr. Chairman. I am pleased to be here today to discuss the progress the family court has made in complying with the D.C. Family Court Act. My comments are based on our January 2004, report on the superior and family courts' implementation of the act and the report we issued in May 2003, at the request of this committee on CFSA's performance.

The family court met established timeframes for transferring child welfare cases into the family court. As of November 2003, only 30 of approximately 3,500 cases that were to be transferred to the family court remained outside the family court and had not been closed. According to information provided by the superior court, the cases remaining outside the family court involved chil-

dren with emotional or educational disabilities, who on average were 14 years old and had been in foster care for 8 years, nearly three times the average number of years in care for a child in the District.

In addition to transferred cases, the family court is responsible for the routine handling of all newly filed child welfare cases.

The chart to my right shows the steps for managing child abuse and neglect cases in the D.C. Family Court. That chart is also in our statement.

The family court has decreased the timeframes for resolving abuse and neglect cases. For example, between 2001 and 2003, the median time to begin adjudication hearings to determine whether the evidence supported abuse and neglect allegations declined more than 80 percent. Similarly, the median days to begin disposition to establish immediate placement for children declined about 80 percent.

Despite these declines, the family court has not achieved full compliance with the asked-for requirement to hold permanency hearings within 12 months of a child's placement in foster care. However, the percentage of cases with timely permanency hearings increased from 25 percent in March 2001, to 55 percent in September 2002; and perhaps during the question period I can give our perspective on why our percentages differ from those of the court.

Although the presence of additional magistrate judges has increased the family court's ability to process additional cases in a timely manner, court officials have said other factors have also improved the court's timeliness. However, barriers continue to impede the family court's full achievement of asked-for compliance. Among these barriers are lengthy waits for housing, which might take up to a year, and the need for parents to receive mental health services or, as you pointed out, substance abuse treatment before they can reunite with the child.

In addition, associate and magistrate judges cited factors that have affected the court's ability to fully implement the one-family, one-judge concept. Family identification of all cases involving the same child depends on access to complete, timely and accurate data; and that is the superior court's new case management system. The working relationship between family court and CFSA has improved. As presiding Judge Satterfield told us earlier, family court and CFSA communicate frequently about day-to-day operations as well as long-term plans involving foster care case management and related court priorities.

However, family court judges and CFSA officials noted several hindrances that constrain their working relationship. Such hindrances include the need for case workers to balance court appearances with other case management duties and differing opinions about the responsibilities of CFSA case workers and judges.

The D.C. courts have made progress in preparing permanent space for the family court. As Chief Justice King said, the first phase of the family court construction project scheduled for completion in July 2004, will consolidate family court support services and provide additional courtrooms, hearing rooms and judges' chambers. In addition, the project will provide an expanded mayor's liai-

son office which coordinates family court services for families and the new family waiting areas as well as other facilities.

The Superior Court in the District of Columbia is exchanging some data and making progress toward developing capability to share data among their respective information systems. For example, in August 2003, the superior court began using IJIS to provide CFSA and the Office of the Corporation Council with information on the date, time and location of scheduled court proceedings.

While the court has made progress, it has not yet resolved several critical issues we first reported in August 2002. According to the program manager, the District's Office of Chief Technology officer will work to resolve the issues we raised in our August 2002, report and incorporate the solutions into its plans.

In conclusion, while the superior court, family court and the District have made progress in implementing the D.C. Family Court Act, several issues continue to impede the court's progress in meeting all requirements of the act. Barriers such as the lack of substance abuse services hinder the court's ability to more quickly process cases. While the superior court and the District have made progress in exchanging information, it remains paramount that their plans fully address several critical issues.

Finally, while progress has been made in enhancing the working relationship between the family court and CFSA, this is an area that requires continuous vigilance and improvement in order to ensure the safety and well-being of the District's children.

Mr. Chairman and Congresswoman Norton, this concludes my statement. I will be glad to answer any questions.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Ms. Ashby follows:]

United States General Accounting Office

GAO

Testimony
Before the House Committee on Government Reform, House of Representatives

For Release on Delivery
Expected at 10:00 a.m. EDT
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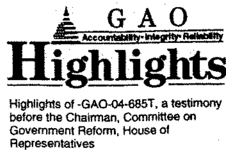
D.C. FAMILY COURT

Operations and Case Management Have Improved, but Critical Issues Remain

Statement of Cornelia M. Ashby, Director
Education, Workforce, and Income Security Issues

GAO-04-685T



Highlights of -GAO-04-685T, a testimony before the Chairman, Committee on Government Reform, House of Representatives

April 23, 2004

D.C. FAMILY COURT

Operations and Case Management Have Improved, but Critical Issues Remain

Why GAO Did This Study

The Family Court, established by the D.C. Family Court Act of 2001, was created in part to transition the former Family Division of the D.C. Superior Court into a court solely dedicated to matters concerning children and families. The act required the transfer of abuse and neglect cases by October 2003 and the implementation of case management practices to expedite their resolution in accordance with timeframes established by the Adoptions and Safe Families Act of 1997 (ASFA); a plan for space, equipment, and other needs; and that the Superior Court integrate its computer systems with those of other D.C. agencies. The act also reformed court practices and established procedures intended to improve interactions between the court and social service agencies in the District. One such agency, the Child and Family Services Agency (CFSA), is responsible for protecting children at risk of abuse and neglect and ensuring that services are provided for them and their families. Both social service agencies and the courts play an important role in addressing child welfare issues.

Representative Tom Davis, Chairman of the House Committee on Government Reform, asked GAO to assess the Family Court's efforts to comply with ASFA requirements and the D.C. Family Court Act of 2001, and its efforts to improve communication with CFSA.

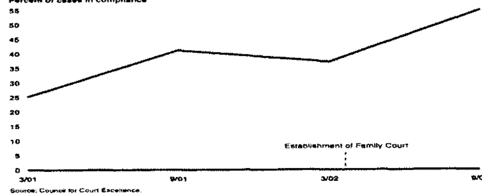
www.gao.gov/cgi-bin/getrpt?GAO-GAO-04-685T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Cornelia M. Ashby at (202) 512-8403 or Ashbyc@gao.gov.

What GAO Found

The Family Court met timeframes for transferring cases and decreased the timeframes for resolving abuse and neglect cases. As of October 2003, only 34 of the approximately 3,500 cases that were to be transferred to the Family Court from other divisions of the Superior Court remained outside the Family Court. For children removed from their homes, the median days to begin disposition hearings declined by 202 days to 39 days, or about 84 percent between 2001 and 2003. However, the Family Court has not met the ASFA requirement to hold permanency hearings within 12 months of a child's placement in foster care for all cases. Timely permanency hearings were held for 25 percent of cases in March 2001 and 55 percent in September 2002.

Percent of Cases Complying with ASFA's Permanency Hearing Requirement (March 2001 through September 2002)



Source: Council for Court Excellence.

Support from Family Court judges and top CFSA management has been a key factor in improving the working relationship between CFSA and the Family Court. However, Family Court judges and CFSA officials noted several hindrances that constrain their working relationship. For example, some CFSA caseworkers said that some Family Court judges overruled their service recommendations.

Progress has also been made in acquiring permanent space for the Family Court and exchanging data with District agencies. According to the Chief Judge of the Superior Court, all public functions of the Family Court and 76 percent of the support functions will be consolidated in the new space. The construction project is scheduled for completion in 2009 and will require timely renovations in existing court buildings. To comply with the D.C. Family Court Act of 2001, the Superior Court and the District are exchanging some data and making progress toward developing the ability to exchange other data. In August 2003, the Superior Court began using a new computer system and is providing CFSA with information on scheduled court proceedings. Further, the District has developed a model to enable the exchange of data among several District agencies, but it has not yet resolved many critical systems issues.

Mr. Chairman and Members of the Committee:

I am pleased to be here today to assist the Committee in its oversight of operations and case management at the D.C. Family Court (Family Court). The D.C. Family Court Act of 2001[1] created the Family Court in part to transition the former Family Division of the D.C. Superior Court into a court solely dedicated to matters concerning children and families. Child abuse and neglect, juvenile delinquency, domestic violence, and child support are some of the issues that fall under the jurisdiction of the Family Court. To assist the Family Court in handling such matters, the D.C. Family Court Act of 2001 included authorization for the Family Court to hire associate judges and magistrate judges[2] with expertise in family law and required that the Family Court develop a transition plan to transfer all family-related cases from other divisions of the Superior Court into the Family Court and implement various case management practices to expedite their resolution in accordance with timeframes established by the Adoption and Safe Families Act of 1997(ASFA).[3] The D.C. Family Court Act of 2001 also required that the Superior Court integrate its computer system with those of relevant District agencies to share information regarding children and families.

My testimony will focus on the Family Court's timeliness in transferring family-related cases from other divisions of the Superior Court to the Family Court and in meeting ASFA timeframes for resolving abuse and neglect cases, and the working relationship between the Family Court and D.C. Child and Family Services Agency (CFSA). I will also discuss two related, but longer-term efforts—the acquisition of permanent physical space for the Family Court and the sharing of data between the Superior Court and District agencies.

My comments today are based primarily on our January 2004 congressionally mandated report on the Family Court's progress in

[1]Pub. L. No. 107-114, Jan. 8, 2002.

[2]In the Family Court, magistrate judges have authority to preside over several proceedings, including abuse and neglect and matters related to child support orders. Family Court associate judges preside over matters such as trials involving juveniles, adoptions, and other proceedings.

[3]ASFA establishes specific timeframes for making permanent living arrangements for children removed from their homes.

implementing its transition.[4] In doing the work for that report, we analyzed data provided by the Family Court on the status of child abuse and neglect cases transferred into the Family Court from judges presiding elsewhere in the Superior Court and the Family Court's timeliness in resolving these and other abuse and neglect cases. We also reviewed documents regarding the acquisition of permanent physical space for the Family Court and documents related to integrating the computer systems of the Superior Court and the District and interviewed relevant District, Superior Court, and Family Court officials as well as child welfare and court experts. For that report and this testimony, we focused on abuse and neglect cases because of congressional interest and the former Family Division's past problems in handling such cases. We conducted our work for the January 2004 report between April and December 2003 in accordance with generally accepted government auditing standards. My comments on the working relationship between the Family Court and CFSA are based on interviews we had with Family Court judges and CFSA executives, managers, and supervisors for the report that we issued in May 2003, at the request of this committee, on CFSA's performance.[5] We conducted our work for that report between September 2002 and May 2003 in accordance with generally accepted government auditing standards.

In summary, the Family Court has made progress in complying with the child welfare provisions of the D.C. Family Court Act of 2001. The Family Court met established timeframes for transferring cases into the Family Court and decreased the timeframes for resolving abuse and neglect cases. As of October 2003, only 34 of approximately 3,500 cases that were to be transferred to the Family Court from other divisions of the Superior Court remained outside the Family Court and had not been closed. Similarly, the working relationship between the Family Court and CFSA has improved. Support from Family Court judges and top CFSA management has been a key factor in this improvement; however, Family Court judges and CFSA officials noted several hindrances that constrain their working relationship. Further, progress has been made in the procurement of permanent space for the Family Court, and the Superior Court and the District are exchanging some data and making progress toward developing

[4] See U.S. General Accounting Office, *D.C. Family Court: Progress Has Been Made in Implementing Its Transition,* GAO-04-234 (Washington, D.C.: January 6, 2004).

[5] See U.S. General Accounting Office, *D.C. Child and Family Services: Better Policy Implementation and Documentation of Related Activities Would Help Improve Performance,* GAO-03-646 (Washington, D.C.: May 27, 2003).

a broader capability to exchange data from their respective information systems to comply with the D.C. Family Court Act of 2001.

Background

The D.C. Family Court Act of 2001 fundamentally changed the way the Superior Court handled its family cases. One of the central organizing principles for establishing the Family Court was the one family/one judge case management concept, whereby the same judge handles all matters related to one family. To support the implementation of the Family Court a total of about $30 million in federal funds was budgeted to fund the Family Court's transition from fiscal years 2002 through 2004.

Several federal and District laws set timeframes for handling abuse and neglect proceedings. The D.C. Family Court Act of 2001, which consolidated all abuse and neglect cases in the Family Court, required that all pending abuse and neglect cases assigned to judges outside the Family Court be transferred to the Family Court by October 2003. Additionally, ASFA requires each child to have a permanency hearing within 12 months of the child's entry into foster care, defined as the earlier of the following two dates: (1) the date of the first judicial finding that the child has been subjected to child abuse or neglect or (2) the date that is 60 days after the date on which the child is removed from the home. The purpose of the permanency hearing is to decide the goal for where the child will permanently reside and set a timetable for achieving the goal. Permanency may be accomplished through reunification with a parent, adoption, guardianship, or some other permanent placement arrangement. To ensure that abuse and neglect cases are properly managed, the Council for Court Excellence, at the request of Congress, evaluates Family Court data on these cases.[6]

It is important that District social service agencies and the Family Court receive and share information they need on the children and families they serve. For example, CFSA caseworkers need to know from the court the status of a child's case, when a hearing is scheduled, and a judge's ruling. The Family Court needs case history information from caseworkers, such as whether services have been provided and if there is evidence of abuse or neglect. According to District officials, current plans to exchange

[6]The Council for Court Excellence is a nonprofit, nonpartisan, civic organization that works to improve the administration of justice in the local and federal courts and related agencies in the Washington, D.C. metropolitan area and in the nation.

information between the Superior Court and District agencies and among District agencies are estimated to cost about $66 million, of which about $22 million would support initiatives outlined in the Mayor's plan issued in July 2002.[7] According to District officials, about $36 million of the $66 million would come from capital funds that are currently available; however, they would need to seek additional funding for the remaining $30 million. The Superior Court's total cost for the system it is using to help the Court better manage its caseload and automate the exchange of data with District agencies—the Integrated Justice Information System (IJIS)—is expected to be between $20 million and $25 million, depending on the availability of funds for project-related infrastructure improvements and other project initiatives. Funding for this project is being made available through the capital budget of the D.C. Courts, which is comprised of all components of the District's judiciary branch.

The Court Was Timely in Transferring Cases and Conducting Other Court Proceedings

The Family Court met established timeframes for transferring cases into the Family Court and decreased the timeframes for resolving abuse and neglect cases. While the D.C. Family Court Act of 2001 generally required the transfer of abuse and neglect cases to the Family Court by October 2003, it also permitted judges outside the Family Court to retain certain abuse and neglect cases provided that their retention of cases met criteria specified in the D.C. Family Court Act of 2001. Specifically, these cases were to remain at all times in full compliance with ASFA, and the Chief Judge of the Superior Court must determine that the retention of the case would lead to a child's placement in a permanent home more quickly than if the case were to be transferred to a judge in the Family Court.

In its October 2003 progress report on the implementation of the Family Court, the Superior Court reported that it had transferred all abuse and neglect cases back to the Family Court, with the exception of 34 cases, as shown in table 1.[8] The Chief Judge of the Superior Court said that, as of August 2003, a justification for retaining an abuse and neglect case outside the Family Court had been provided in all such cases. According to the Superior Court, the principal reason for retaining abuse and neglect cases

[7] *Supporting the Vision: Mayor's Plan to Integrate the District of Columbia's Social Services Information Systems with the Family Court of the D.C. Superior Court*, July 8, 2002.

[8] The Superior Court completed an initial transfer of 1,554 abuse and neglect cases to the Family Court in June 2002 and began transferring the additional abuse and neglect cases outside the Family Court in November 2002.

outside the Family Court was a determination made by non-Family Court judges that the cases would close before December 31, 2002, either because the child would turn 21, and thus no longer be under court jurisdiction, or because the case would close with a final adoption, custody, or guardianship decree. In the court's October 2003 progress report, it stated that the cases remaining outside the Family Court involve children with emotional or educational disabilities.

Table 1: Status of Abuse and Neglect Cases (Oct. 2003)

Status of Cases	Number of cases	Percent of cases
Cases transferred to Family Court judges	3,255	94
Cases retained by judges outside the Family Court and closed	182	5
Cases retained by judges outside the Family Court and not closed	34	1
Total	**3,471**	**100**

Source: D.C. Superior Court

While the Superior Court reported that 4 of the 34 abuse and neglect cases remaining outside the Family Court had closed subsequent to its October 2003 progress report, children in the remaining 30 cases had not yet been placed in permanent living arrangements. On average, children in these 30 cases are 14 years of age and have been in foster care for 8 years, nearly three times the average number of years in care for a child in the District. Table 2 provides additional information on the characteristics of the 30 cases that remained outside the Family Court as of November 2003.

Table 2: Characteristics of Abuse and Neglect Cases Remaining Outside the Family Court (Nov. 2003)

Permanency goal	Number of cases (percent)	Average age of child	Average number of years in care
Alternative plan[a]	16 (53)	18	10
Adoption	11 (37)	9	5
Reunification	3 (10)	16	10
Total for all cases	**30 (100)**	**14**	**8**

Source: D.C. Superior Court and GAO analysis.

[a]Alternative plans include permanency goals other than reunification, adoption, custody, and guardianship, such as independent living.

The Superior Court also reported that the Family Court had closed 620 of the 3,255 transferred cases, or 19 percent. Among the transferred cases closed by the Family Court, 77 percent of the 620 cases closed when the permanency goal was achieved following reunification of the child with a parent, adoption, guardianship, or custody of the child by a designated family member or other individual. In most of the remaining transferred cases that had closed, the child had reached the age of majority, or 21 years of age in the District. Table 3 summarizes the reasons for closing abuse and neglect cases transferred to the Family Court, as of October 2003.

Table 3: Frequency of Reasons for Closing Abuse and Neglect Cases Transferred to the Family Court (Oct. 2003)

Reason for case closure	Number of cases	Percent of cases
Permanency goal achieved		
Reunification	210	34
Adoption	174	28
Guardianship	52	8
Custody	42	7
Child reached age of majority (21 years old)	79	13
Emancipated child[a]	43	7
Court case closed/continued for CFSA services[b]	15	2
Child deceased	5	1
Total	**620**	**100**

Source: D.C. Superior Court

[a]An emancipated child is a youth who no longer wants, or who refuses to accept, services.

[b]Includes cases in which the court has reached an agreement with CFSA to continue the provision of services after the court case is closed.

In addition to transferred cases, the Family Court is responsible for the routine handling of all newly filed cases. For alleged cases of abuse and neglect, complainants file a petition with the Family Court requesting a review of the allegation. After the filing of the petition, the Family Court holds an initial hearing in which it hears and rules on the allegation. Following the initial hearing, the court may resolve the case through mediation or through a pretrial hearing. [9] Depending on the course of action that is taken and its outcome, several different court proceedings may follow to achieve permanency for children, thereby terminating the court's jurisdiction. Family Court abuse and neglect proceedings include several key activities, such as adjudication, disposition,[10] and permanency[11]

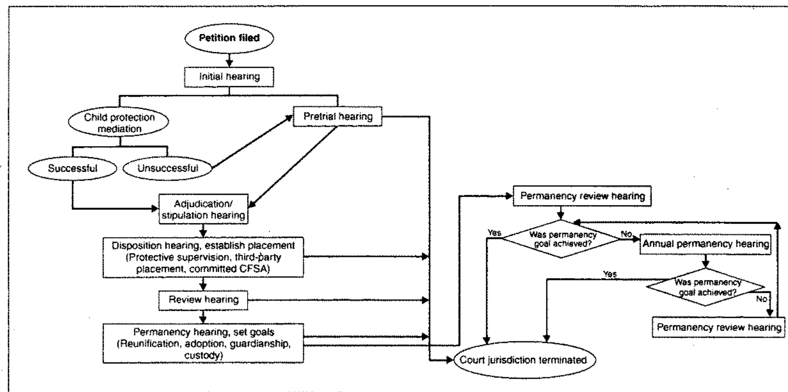
[9]Mediation procedures, involving judges, family members, attorneys, and others, attempt to mitigate alleged matters of abuse and neglect cases before conducting subsequent court proceedings. The court conducts periodic review hearings on the status of abuse and neglect cases.

[10]Adjudication hearings determine whether allegations of abuse or neglect are sustained by the evidence and disposition hearings establish where a child will be placed.

[11]The District, like ASFA, requires that permanency hearings be held within 12 months of a child's placement in foster care.

hearings. Figure 1 shows the flow of abuse and neglect cases through the various case activities handled by the D.C. Family Court.

Figure 1: D.C. Family Court Steps for Managing Child Abuse and Neglect Cases



Source: D.C. Superior Court.

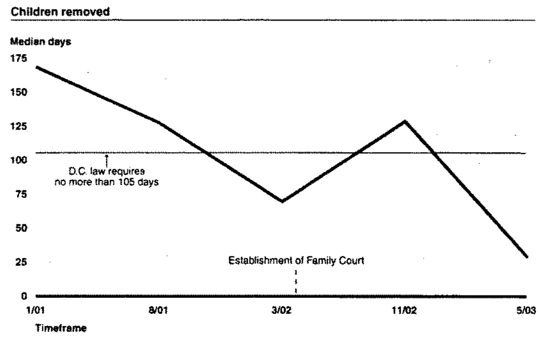
Data provided by the court show that in the last 2 years there has been a decrease in the amount of time to begin an adjudication hearing[12] for children in abuse and neglect cases. Figure 2 shows median times to begin hearings for children removed from their homes and for children not removed from their homes. As required by District law, the court must begin the hearing within 105 days for children removed from their homes and within 45 days for children not removed from their homes. Between 2001 and 2003, the median time to begin adjudication hearings in cases when a child was removed from home declined by 140 days to 28 days, or about 83 percent. Similarly, the decline in timeframes to begin hearings was about as large in cases when children remained in their homes. In

[12]These hearings are also known as stipulation hearings.

these cases, median timeframes declined by about 90 percent during this same period to 12 days. While the reduction in timeframes for these hearings began prior to the establishment of the Family Court, median days to begin hearings for children removed from their homes increased immediately following the court's establishment before declining again. According to two magistrate judges, the increase in timeframes immediately following establishment of the Family Court was attributable to the volume and complexity of cases initially transferred to it.

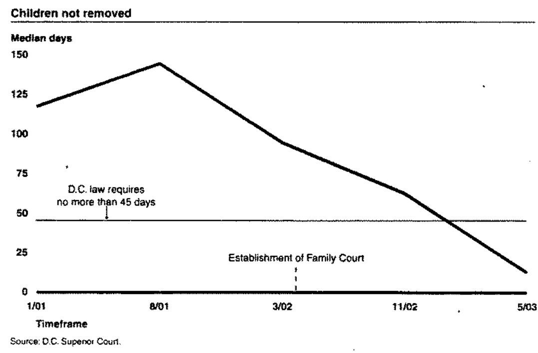
Figure 2: Median Days to Begin Adjudication Hearings for Children Removed and Not Removed from Home, January 2001 through May 2003

Children removed



Source: D.C. Superior Court.

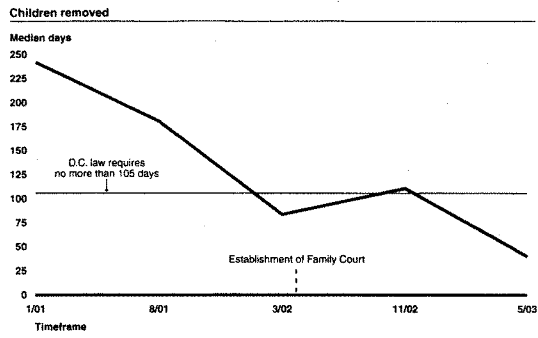
Children not removed



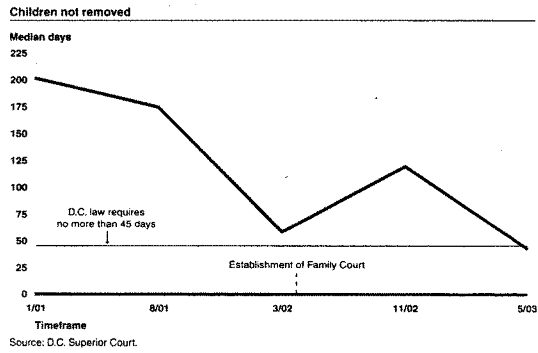
Source: D.C. Superior Court.

Similarly, timeframes to begin disposition hearings, a proceeding that occurs after the adjudication hearing and prior to permanency hearings, declined between 2001 and 2003, as shown in figure 3. As required by District law, the court must begin disposition hearings within 105 days for children removed from their homes and within 45 days for children not removed from their homes. The median days to begin disposition hearings for children removed from their homes declined by 202 days to 39 days, or about 84 percent, between 2001 and 2003. The median days to begin disposition hearings for children not removed from their homes declined by 159 days to 42 days, or about 79 percent. Therefore, the Superior Court is also within the timeframes required by D.C. law for these hearings. While the decline in the timeframes for disposition hearings began prior to the Family Court, according to two magistrate judges we interviewed, the time required to begin these hearings increased in the 7-month period following the establishment of the Family Court because of the complexity of these cases.

Figure 3: Median Days to Disposition for Children Removed and Not Removed from Home, January 2001 through May 2003



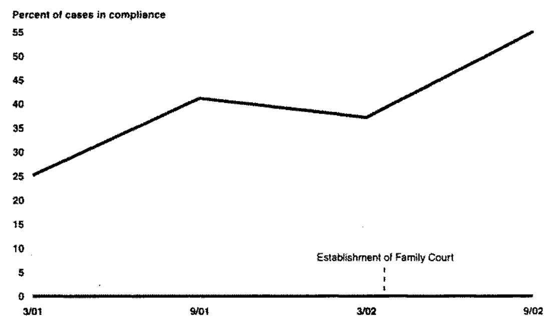
Source: D.C. Superior Court.



Source: D.C. Superior Court.

Despite declines in timeframes to begin adjudication and disposition hearings, the Family Court has not achieved full compliance with the ASFA requirement to hold permanency hearings within 12 months of a child's placement in foster care. The percentage of cases with timely permanency hearings increased from 25 percent in March 2001 to 55 percent in September 2002, as shown in figure 4.[13]

Figure 4: Percent of Cases in Compliance with ASFA's Permanency Hearing Requirement, March 2001 through September 2002



Source: Council for Court Excellence.

Note: These data on ASFA compliance apply to cases filed in 2000 and 2001 for which 12 months had expired since the time the child was placed in foster care.

Although the presence of additional magistrate judges, primarily hired to handle cases transferred into the Family Court from other divisions and to improve the court's timeliness in handling its cases, has increased the Family Court's ability to process additional cases in a timelier manner, court officials said that other factors have also improved the court's

[13]In commenting on a draft of our January 2004 report, the Superior Court reported an 84 percent rate of compliance with ASFA's permanency hearing requirement for cases filed between January and June 2002. However, we did not use this court-reported data in reporting the court's compliance with ASFA because neither GAO nor the Council for Court Excellence had verified these data. In reporting the information in figure 4, the Council for Court Excellence verified automated case data with information contained in the paper case file.

timeliness. These factors included reminders to judges of upcoming permanency hearing deadlines and the use of uniform court order forms.

However, other factors continue to impede the Family Court's full achievement of ASFA compliance. Some Family Court judges have questioned the adequacy of federal ASFA timelines for permanency, citing barriers external to the court, which increase the time required to achieve permanency. Among these external barriers are lengthy waits for housing, which might take up to a year, and the need for parents to receive mental health services or substance abuse treatment before they can reunite with the child. From January through May 2003, Family Court judges reported that parental disabilities, including emotional impairments and treatment needs, most often impeded children's reunification with their parents. In nearly half of these reported instances, the parent needed substance abuse treatment. Procedural impediments to achieving reunification included the lack of sufficient housing to fully accommodate the needs of the reunified family. With regard to adoption and guardianship, procedural impediments included the need to complete administrative requirements associated with placing children with adoptive families in locations other than the District. Financial impediments to permanency included insufficient adoption or guardianship subsidies. Table 4 provides additional details on impediments to achieving permanency goals.

Table 4: Impediments to Permanency by Current Permanency Goal, January through May 2003

Barriers to permanency	Current permanency goal (percent of hearings in which barrier impeded permanency)[a]						
	Reunification	**Adoption**	**Guardianship**	**Custody**	**Alternative plan[b]**	**Goal not designated**	**Total hearings**
Permanency options declined	8 (1)	19 (1)	3 (0)	0 (0)	101 (10)	2 (4)	**133 (3)**
Disabilities (child)	340 (24)	313 (19)	96 (11)	8 (11)	409 (39)	12 (23)	**1,178 (23)**
Disabilities (parent/caretaker)	531 (37)	36 (2)	54 (6)	8 (11)	19 (2)	4 (8)	**652 (13)**
Procedural impediments	205 (14)	824 (51)	456 (52)	45 (59)	12 (1)	15 (28)	**1,557 (30)**
Agency impediments	32 (2)	193 (12)	57 (7)	8 (11)	28 (3)	1 (2)	**319 (6)**
Financial impediments	1 (0)	78 (5)	91 (10)	0 (0)	0 (0)	3 (6)	**173 (3)**
Legal impediments	19 (1)	14 (1)	12 (1)	3(4)	23 (2)	1 (2)	**72 (1)**
Other circumstances	305 (21)	148 (9)	107 (12)	4 (5)	466 (44)	15 (28)	**1,045 (20)**
Total[c]	**1,441(100)**	**1,625 (100)**	**876 (99)**	**76 (101)**	**1,058 (101)**	**53 (101)**	**5,129 (99)**

Source: D.C. Superior Court.

[a]Associate and magistrate judges reported barriers to specified permanency goals using a questionnaire distributed by the Family Court. Judges reported information on barriers to permanency in 74 percent of the hearings held between January and May 2003.

[b]Alternative plans include permanency goals other than reunification, adoption, custody, and guardianship, such as independent living.

[c]All percentages do not add to 100 due to rounding error.

Associate judges we interviewed cited additional factors that impeded the achievement of the appropriate foster care placements and timely permanency goals. For example, one judge said that the District's Youth Services Administration inappropriately placed a 16-year old boy in the juvenile justice system because CFSA had not previously petitioned a neglect case before the Family Court. As a result, the child experienced a less appropriate and more injurious placement in the juvenile justice system than what the child would have experienced had he been appropriately placed in foster care. In other cases, an associate judge has had to mediate disputes among District agencies that did not agree with court orders to pay for services for abused and neglected children, further complicating and delaying the process for providing needed services and achieving established permanency goals.

To assist the Family Court in its management of abuse and neglect cases, the Family Court transition plan required magistrate judges to preside over abuse and neglect cases transferred from judges in other divisions of the Superior Court, and these judges absorbed a large number of those cases.

In addition, magistrate judges, teamed with associate judges under the one family/one judge concept, had responsibility for assisting the Family Court in resolving all new abuse and neglect cases. Both associate and magistrate judges cited other factors that have affected the court's ability to fully implement the one family/one judge concept and achieve the potential efficiency and effectiveness that could have resulted. For example, the Family Court's identification of all cases involving the same child depends on access to complete, timely, and accurate data in IJIS. In addition, Family Court judges said that improvements in the timeliness of the court's proceedings depends, in part, on the continuous assignment of the same caseworker from CFSA to a case and sufficient support of an assigned assistant corporation counsel from the District's Office of Corporation Counsel. Family Court judges said the lack of consistent support from a designated CFSA caseworker and lack of Assistant Corporation counsels, have in certain cases, prolonged the time required to conduct court proceedings.

In addition, several judges and court officials told us that they do not have sufficient support personnel to allow the Family Court to manage its caseload more efficiently. For example, additional courtroom clerks and court aids could improve case flow and management in the Family Court. These personnel are needed to update automated data, prepare cases for the court, and process court documentation. Under contract with the Superior Court, Booz Allen Hamilton analyzed the Superior Court's staffing resources and needs; this evaluation[14] found that the former Family Division, now designated as the Family Court, had the highest need for additional full-time positions to conduct its work. Specifically, the analysis found that the Family Court had 154 of the 175 full-time positions needed, or a shortfall of about 12 percent. Two branches—juvenile and neglect and domestic relations—had most of the identified shortfall in full-time positions. In commenting on a draft of the January 2004 report, the Superior Court said that the Family Court, subsequent to enactment of the D.C. Family Court Act of 2001, hired additional judges and support personnel in excess of the number identified as needed in the Booz Allen Hamilton study to meet the needs of the newly established Family Court. However, several branch chiefs and supervisors we interviewed said the Family Court still needed additional support personnel to better manage its caseload.

[14] *District of Columbia Courts: Phase I Final Report*, Booz Allen Hamilton (Washington, D.C.: June 25, 2002).

The Superior Court has decided to conduct strategic planning efforts and re-engineer business processes in the various divisions prior to making the commitment to hire additional support personnel. According to the Chief Judge of the Superior Court, intervening activities, such as the initial implementation of IJIS and anticipated changes in the procurement of permanent physical space for the Family Court, have necessitated a reassessment of how the court performs its work and the related impact of its operations on needed staffing. In September 2003, the Superior Court entered into another contract with Booz Allen Hamilton to reassess resource needs in light of the implementation of the D.C. Family Court Act of 2001. According to the Chief Judge of the Superior Court as of April 19, 2004, a final report on these resource needs had not been issued.

The Family Court and CFSA Have Improved Their Working Relationship, but Hindering Factors Still Exist

The working relationship between the Family Court and CFSA has improved; however, Family Court judges and CFSA officials noted several hindrances that constrain their working relationship. They have been working together to address some of these hindrances. For example, the Family Court and CFSA participate in various planning meetings. In addition, Family Court judges and CFSA caseworkers have participated in training sessions together. These sessions provide participants with information about case management responsibilities and various court proceedings, with the intent of improving and enhancing their mutual understanding about key issues. Also, since 2002, Office of Corporation Counsel attorneys have been located at CFSA and work closely with caseworkers—an arrangement that has improved the working relationship between CFSA and the Family Court because the caseworkers and the attorneys are better prepared for court appearances. Further, the Family Court and CFSA communicate frequently about day-to-day operations as well as long-range plans involving foster care case management and related court priorities, and on several occasions expressed their commitment to improving working relationships. To help resolve conflicts about ordering services, Family Court judges and CFSA caseworkers have participated in sessions during which they share information about their respective concerns, priorities, and responsibilities in meeting the needs of the District's foster care children and their families.

Additionally, CFSA assigned a liaison representative to the Family Court who is responsible for working with other District agency liaison representatives to assist social workers and case managers in identifying and accessing court-ordered services for children and their families at the Family Court. The D.C. Family Court Act of 2001 required the District's Mayor to ensure that representatives of appropriate offices, which provide

social services and other related services to individuals and families served by the Family Court, are available on-site at the Family Court to coordinate the provision of such services.[15] A monthly schedule shows that CFSA, the D.C. Department of Health, the D.C. Housing Authority, the D.C. Department of Mental Health, Youth Services Administration, and the D.C. Public Schools have representatives on-site. [16] However, the Department of Human Services, the Metropolitan Police Department, and the Income Maintenance Administration are not on-site but provide support from off-site locations. According to data compiled by the liaison office, from February 2003 to March 2004, the office made 781 referrals for services. Of these referrals, 300 were for special education services, 127 were for substance abuse services and 121 were related to housing needs.

Hindrances that constrain the working relationship between the Family Court and CFSA include the need for caseworkers to balance court appearances with other case management duties, an insufficient number of caseworkers, caseworkers who are unfamiliar with cases that have been transferred to them, and differing opinions about the responsibilities of CFSA caseworkers and judges. For example, although CFSA caseworkers are responsible for identifying and arranging services needed for children and their families, some caseworkers said that some Family Court judges overruled their service recommendations. Family Court judges told us that they sometimes made decisions about services for children because they believe caseworkers did not always recommend appropriate ones or provide the court with timely and complete information on the facts and circumstances of the case. Furthermore, the Presiding Judge of the Family Court explained that it was the judges' role to listen to all parties and then make the best decisions by taking into account all points of view.

[15] The D.C. Family Court Act of 2001 states that these agencies are to include the D.C. Public Schools, the D.C. Housing Authority, the Child and Family Services Agency, the Office of the Corporation Counsel, the Metropolitan Police Department, the Department of Health, and other offices determined by the Mayor.

[16] CFSA and the D.C. Department of Health have representatives on-site at the liaison office 5 days a week and the other offices have representatives on-site at least 2 days a week.

Progress Has Been Made in Procuring Permanent Physical Space for the Family Court, but the New Space Will Not Consolidate All Court Operations

The D.C. Courts, comprised of all components of the District's judiciary branch, has made progress in procuring permanent space for the Family Court, but all Family Court operations will not be consolidated under the current plan. To prepare space for the new Family Court, the D.C. Courts designated and redesigned space for the Family Court, constructed chambers for the new magistrate judges and their staff, and relocated certain non-Family Court-related components in other buildings, among other actions.

The first phase of the Family Court construction project, scheduled for completion in July 2004, will consolidate Family Court support services and provide additional courtrooms, hearing rooms, and judges' chambers. In addition, the project will provide an expanded Mayor's Liaison Office, which coordinates Family Court services for families and provides families with information on such services, and a new family waiting area, among other facilities.

However, completion of the entire Family Court construction project, scheduled for late 2009, will require the timely completion of renovations in several court buildings located on the Judiciary Square Campus. Because of the historic nature of some of these buildings, the Superior Court must obtain necessary approvals for exterior modifications from various regulatory authorities, including the National Capital Planning Commission. In addition, some actions may require environmental assessments and their related formal review process.

While many of the Family Court operations will be consolidated in the new space, several court functions will remain in other areas. According to the Chief Judge of the Superior Court, the new space will consolidate all public functions of the Family Court and 76 percent of the support functions and associated personnel. The current Family Court space plan is an interim plan leading to a larger plan, intended to fully consolidate all Family Court and related operations in one location, for which the D.C. Courts has requested $6 million for fiscal year 2005 to design Family Court space and $57 million for fiscal year 2006 to construct court facilities. If the D.C. Courts does not receive funding for the larger Family Court space plan, it will continue with the current interim plan.

The Superior Court and the District Are Making Progress Toward Exchanging Data among Their Computer Systems, but the District Has Not Resolved Several Critical Issues

The Superior Court and the District of Columbia are exchanging some data and making progress toward developing a broader capability to share data among their respective information systems.[17] In August 2003, the Superior Court began using IJIS to automate the exchange of data with District agencies, such as providing CFSA and the Office of the Corporation Counsel with information on the date, time, and location of scheduled court proceedings. CFSA managers said that scheduling of court hearings has improved. Scheduling information allows caseworkers to plan their case management duties such that they do not conflict with court appearances. Further, the District's Office of the Chief Technology Officer (OCTO), responsible for leading the information technology development for the District's data exchange effort, has developed a prototype, or model, to enable the exchange of data among the police department, social service agencies, and the Superior Court.

While the District has made progress, it has not yet fully addressed or resolved several critical issues we reported in August 2002.[18] These issues include the need to specify the integration requirements of the Superior Court and District agencies and to resolve privacy restrictions and data quality issues among District agencies. The District is preparing plans and expects to begin developing a data sharing capability and data warehouses to enable data sharing among CFSA, the Department of Human Services' Youth Services Administration, the Department of Mental Health, and the Family Court in 2004. According to the Program Manager, OCTO will work to resolve the issues we raised in our August 2002 report and incorporate the solutions into its plans.

Conclusions

While the Superior Court, the Family Court, and the District have made progress in implementing the D.C. Family Court Act of 2001, several issues continue to affect the court's progress in meeting all requirements of the act. Several barriers, such as a lack of substance abuse services, hinder the

[17] The D.C. Family Court Act of 2001 lists six District offices that the Mayor's plan was to include with respect to accessing and sharing information on individuals and families served by the Family Court: the D.C. Public Schools, D.C. Housing Authority, Child and Family Services Agency, Office of the Corporation Counsel, Metropolitan Police Department, and Department of Health. In addition, the Mayor determined that the plan should also include the Department of Human Services and Department of Mental Health.

[18] See U.S. General Accounting Office, *District of Columbia: More Details Needed on Plans to Integrate Computer Systems with the Family Court and Use Federal Funds*, GAO-02-948 (Washington, D.C.: August 7, 2002).

court's ability to more quickly process cases. While the Superior Court and the District have made progress in exchanging information and building a greater capability to perform this function, it remains paramount that their plans fully address several critical issues we previously reported and our prior recommendations. Finally, while progress has been made in enhancing the working relationship between the Family Court and CFSA, this is an area that requires continuous vigilance and improvement in order to ensure the safety and well being of the District's children and families.

Mr. Chairman, this concludes my prepared statement. I will be happy to respond to any questions you or other members of the committee may have.

GAO Contact and Acknowledgments

For further information regarding this testimony, please contact Cornelia M. Ashby at (202) 512-8403. Individuals making key contributions to this testimony include Carolyn M. Taylor, Anjali Tekchandani, and Mark E. Ward.

Related GAO Products

D.C. Family Court: Progress Has Been Made in Implementing Its Transition. GAO-04-234. Washington, D.C.: January 6, 2004.

D.C. Child and Family Services: Better Policy Implementation and Documentation of Related Activities Would Help Improve Performance. GAO-03-646. Washington, D.C.: May 27, 2003.

D.C. Child and Family Services: Key Issues Affecting the Management of Its Foster Care Cases. GAO-03-758T. Washington, D.C.: May 16, 2003.

District of Columbia: Issues Associated with the Child and Family Services Agency's Performance and Policies. GAO-03-611T. Washington, D.C.: April 2, 2003.

District of Columbia: More Details Needed on Plans to Integrate Computer Systems With the Family Court and Use Federal Funds. GAO-02-948. Washington, D.C.: August 7, 2002.

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Chairman TOM DAVIS. Mr. Hall.

Mr. HALL. Good morning, Chairman Davis and Congresswoman Norton and other members of the committee. Thank you for inviting the Council for Court Excellence to provide testimony at today's hearing. My name is Elliott Hall, and I have served as Chair of the CCE since June of last year. I am honored to present the views of the Council to this committee.

For the record, let me summarize the mission of the Council for Court Excellence.

The Council is a District of Columbia nonpartisan, nonprofit civic organization that has worked for over 20 years to improve the administration of justice in the local and Federal courts and related agencies in the Washington, DC, area.

Let me begin by discussing the family court. The Council for Court Excellence is about to publish a comprehensive report on the performance of the District of Columbia's child protection system. The report addresses the city's compliance with the Adoption and Safe Families Act and the D.C. Family Court Act of 2001. The report is based on comprehensive research the Council conducted in the second half of 2003 with generous funding from Congress.

In summary, the Council's research shows that neglected or abused D.C. children are in far better hands now than they were a few years ago. In the aggregate, the city's child protection system is performing at a far higher level than before, though there is still a need for improvement overall. It is also worth remembering that improved overall performance can never guarantee against bad occurrences in individual cases.

The CCE report documents steadily increasing compliance rates with Federal and DC ASFA deadlines. That increased compliance no doubt has been aided recently by the significantly improved practices and procedures implemented as required by the Family Court Act. The report also documents nearly complete compliance with each requirement of the Family Court Act, though progress is slower on the Mayor's Safe Passage data system.

Even more important, the case-processing improvements are beginning to translate into shorter stays in foster care for many D.C. children. Data from 2002 and 2003 indicate that those children who can safely be reunited with their families are going home in less than 1 year's time. This is a significant improvement from pre-D.C. ASFA days when it took nearly 2 years to reunify children with their families.

While some important questions remain unanswered, the CCE report is largely a good news story. Additional work must be done to ensure better outcomes for all neglected or abused children, but D.C. child welfare system leaders deserve praise for the excellent work they have done to date. The Mayor, the D.C. Council and Congress also deserve praise for increasing both local and Federal funding to this system. Those investments are producing better outcomes for the city's neglected and abused children.

Now for the Probate Division, adult guardianship and conservatorship. On June 15 and 16 of last year, the Washington Post published a series on the D.C. adult guardianship and conservatorship system which extensively researched and documented lax oversight by the court of adult wards of the court and patterns of

neglect by some of the D.C. Superior Court's Probate Division panel of approved attorneys who are eligible for such appointments.

On June 17, 2003, the chief judge of the D.C. Superior Court issued an administrative order relating to Probate Division panels and oversight. That order sought to address some of the issues in the Post articles.

On June 19, 2003, the Council joined the Bar Association of D.C. to form a Probate Review Committee to discuss the issues raised by the articles. The Review Committee issued its final report in late February to Chief Judge King but the report has not been made public, pending action by the D.C. Superior Court.

The report offers recommendations addressing selected Probate Division administrative and operating procedures, including providing direct judicial oversight of guardianship and conservator reports; enhancing communication between the probate bar, the bench and Probate Division staff; suspending or disqualifying from the fiduciary panel seriously derelict probate attorneys; and other issues.

The Council supports the findings and recommendations of the Probate Review Committee as far as they go, but strongly believes that further attention is required to address and remedy the issues brought to public light by the articles.

Now to issues of general court administration.

With regard to general court administration, similar to our analysis of the family court and Probate Division, there is some good news to report since our last appearance before this committee in June 2002. The Council's court observation studies of the Civil and Criminal Divisions of the superior court completed in 2001 and 2002 remain true today with respect to the high caliber of judges and their success in providing the community with a high quality of justice. We also want to recognize the court for having written and published a strategic plan and for their followup in the form of four upcoming town hall meetings that will give residents in all wards of the city an opportunity to share their views about the D.C. Superior Court and the court of appeals and to talk with court leaders about important issues facing residents throughout the District. Such outreach is an important step.

We also applaud the court's establishment of a pilot community court for police Districts 6 and 7 and can report that, after only a 2-year period, the pilot is functioning fairly well.

The establishment of a community court was one of the 27 recommendations made in the Council's April 2001 report, "A Roadmap to a Better D.C. Criminal Justice System." CCE's December 2003, report, "Two Years Down the Road," is the result of a 10-month study conducted last year with generous funding from Congress. The study charted the progress of efforts made to increase the efficiency of the D.C. criminal justice system based on the 27 recommendations of our April 2001, roadmap report. The new report recognizes stakeholder agencies, the D.C. criminal justice system is indeed headed down the positive reform path. But much work remains to be done, including expanding the court's work in applying revised scheduling practices to the felony area, which consumes most of the police overtime relating to prosecutor and court appearances.

Other issues with which CCE is concerned include: one, the continuing delay in production of court transcripts; and two, the lack of transparency of court information in general and budgetary information specifically from a public institution. We believe such information should be readily available to everyone and should be posted on the court's Web site, as should the court's annual reports.

We commend this committee for your policy and fiscal leadership in overseeing the court's in the District of Columbia and thank you for holding this oversight hearing which we believe should be done on an annual basis. We appreciate the courts providing us with a copy of its budget submission to Congress, and we commend the courts for the high quality of that budget package. We also thank the D.C. courts for the plans they have laid out and the manner in which they have received our various recommendations. We continue to look forward to working with the D.C. courts and with this committee.

I am happy to answer your questions.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Mr. Hall follows:]

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Statement of the

Council for Court Excellence

to the

United States House of Representatives

Committee on Government Reform

Regarding the

Performance of the Superior Court of the District of Columbia

April 23, 2004

COUNCIL FOR COURT EXCELLENCE

Introduction

Good morning, Chairman Davis, and other members of the U.S. House of Representatives Government Reform Committee. Thank you for inviting the Council for Court Excellence (CCE) to provide testimony at today's oversight hearing to review the performance of the DC Superior Court with particular focus on the Family Court, the Probate Division, and other court administration topics. My name is Elliott Hall, and I have served as the Chair of CCE since June of last year.

I am honored to present the views of CCE to this Committee. For the record, let me summarize the mission of the Council for Court Excellence. The Council is a District of Columbia non-partisan, non-profit civic organization that works to improve the administration of justice in the local and federal courts and related agencies in the Washington, DC area. Since 1982, CCE has been a unique resource for our community, bringing together members of the civic, legal, business, and judicial communities to work jointly to improve the administration of justice. We have worked closely with House and Senate DC Subcommittees in the past on such issues as the DC Jury System Act of 1986, the DC Criminal Justice Coordinating Council, and the development of the DC Family Court Act of 2001.

No judicial member of CCE participated in or contributed to the formulation of our testimony here today.

The Family Court

The Council for Court Excellence is about to publish a comprehensive report on the performance of the District of Columbia's child protection system. The report addresses the city's compliance with the Adoption and Safe Families Act and the DC Family Court Act of 2001. The report is based on comprehensive research CCE conducted in the second half of 2003, with generous funding from Congress and the mandate to "continue ongoing independent oversight...[and to provide]...an annual report to Congress on the implementation of the District of Columbia Family Court Act of 2001 and the [federal] Adoption and Safe Families Act of 1997 (ASFA)."

In summary, the CCE research results show that neglected or abused DC children are in far better hands now than they were a few years ago. In the aggregate the city's child protection system is performing at a far higher level than before, though there is still both room and need for improvement overall. It is also worth remembering that improved overall performance can never guarantee against bad occurrences in an individual case.

In our opinion, the improved overall performance of the District of Columbia's child abuse and neglect system over the past three years is attributable to several factors:

- stable, superior leadership of the responsible DC governmental agencies, especially the Family Court and the Child and Family Services Agency (CFSA);

- collaboration among the Family Court, CFSA, and the Office of Corporation Counsel, which has led to joint planning and implementation of system reforms and of the important organizational reforms mandated by the Family Court Act;

- substantial increases in funding to all three of those entities, which for the first time have provided each of them with adequate resources to discharge their responsibilities; and

- a shared commitment to do better for the city's vulnerable children by "managing by the data," that is, by routinely measuring performance against statutory and other legal benchmarks.

In order to trace progress over time, CCE's report compares the city's performance on behalf of children whose neglect or abuse cases entered the system over three time intervals:
1) 1998 and 1999 - prior to the city's implementation of ASFA or the Family Court Act;
2) 2000 and 2001 - the initial ASFA implementation period; and
3) 2002 and 2003 - continued ASFA implementation and the Family Court Act implementation period.

The CCE report documents steadily increasing compliance rates, over these three time intervals, with federal and DC ASFA deadlines. That increased compliance, no doubt, has been aided recently by the significantly improved practices and procedures implemented as required by the Family Court Act. The report also documents nearly complete compliance with each requirement of the Family Court Act, though progress is slower on the Mayor's Safe Passages data system.

Even more important, the case-processing improvements are beginning to translate into shorter stays in foster care for many DC children. Data from 2002 and 2003 indicate that those children who can safely be reunited with their families are going home in less than one year's time. This is a significant improvement from pre-DC ASFA days, when it took nearly two years to reunify children with their families.

While some important questions remain unanswered, the CCE report is largely a good news story. Additional work must be done to ensure better outcomes for all neglected or abused children, but DC child welfare system leaders deserve praise for the excellent work they have done to date. The Mayor, the DC Council, and Congress also deserve praise for increasing both local and federal funding to this system; those investments are producing better outcomes for the city's neglected and abused children.

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Probate Division: Adult Guardianship and Conservatorship

On June 15 and 16, 2003, the *Washington Post* published a series on the DC adult guardianship and conservatorship system, which extensively researched and documented lax oversight by the Court of adult wards of the court and patterns of neglect by some of the DC Superior Court's Probate Division Panel of approved attorneys who are eligible for such appointments.

On June 17, 2003 the Chief Judge of the DC Superior Court issued Administrative Order 03-16, "Relating to Probate Division Panels and Oversight." That order sought to address some of the issues in the June 2003 *Washington Post* series, including (1) requiring Probate Division Panel attorneys to complete at least six hours of probate training and to submit a certificate from Bar Counsel that they have no disciplinary actions on record or pending; (2) requiring judicial officers to appoint only attorneys listed on the Probate Division Panel; and (3) barring counsel or fiduciaries from accepting more guardianship or conservatorship cases unless they have timely filed all reports and verified they have personally verified the location, health, and availability of placements for wards already under their care.

On June 19, 2003 CCE joined with the Bar Association of DC to form a Probate Review Committee "to discuss issues brought to public attention" by the articles. The Review Committee held nine meetings between June 17, 2003 and February 5, 2004 and, at its first meeting, "determined to use the articles as a basis for examining the serious problems perceived to exist in the Probate Division and to recommend solutions to any problems identified by the Committee."

The Review Committee issued its final report to Chief Judge King on February 25 for a two month period of review. The report has not been made public, pending action by the DC Superior Court. The report offers recommendations addressing selected Probate Division administrative and operating procedures, including providing direct judicial oversight of guardianship and conservator reports; enhancing communication between the probate bar, the bench, and Probate Division staff; suspending or disqualifying from the Fiduciary Panel seriously derelict probate attorneys; and other issues. It excluded from its review the perspectives of clients' families, groups who provide legal services to the elderly, the DC Government, and jurisdictions which successfully oversee the adult guardianship and conservatorship process.

CCE supports the findings and recommendations of the Probate Review Committee as far as they go, but strongly believes that further attention is required to address and remedy the issues brought to public light. Among the most pressing include:

- Compliance with the DC Court of Appeals *Orshansky* decision. Are independent experts now being routinely appointed to evaluate whether guardianship is needed?
- The decision to appoint a guardian for the elderly or disabled is frequently made outside of their presence or knowledge. Are there alternatives to having the incapacitated person appear in court? For example, Idaho law provides that the venue for guardianship

proceedings for an incapacitated person is in the place where the incapacitated person resides or is present.

- The *Washington Post* observed that the determination for guardianship or conservatorship takes place in "usually around 10 minutes." Is this an appropriate length of time to make such a fundamental decision about a person's life?

- Exploring whether to place a cap on the number of guardianship and conservatorship cases assigned at any one time to each Probate Division Panel attorney to avoid case overload, particularly for solo practitioners.

- Promulgating and publishing to the community and interested persons, as well as the bar, strict standards for Probate Division Panel eligibility, including training requirements, proof of malpractice insurance, and strict disqualification standards.

- Placing a priority on family members serving as guardians, and having strangers serve as guardians only as a last resort.

If meaningful and systemic reform is to occur, more work remains to be done by the Court, the Bar, by government agencies, and by stakeholder groups, including the Council for Court Excellence.

General Court Administration

With regard to general court administration, similar to our analysis of the Family Court and the Probate Division, there is some good news to report since our last appearance before this Committee in June of 2002. CCE's Court Observation studies of the Civil and Criminal Divisions of the Superior Court, completed in 2001 and 2002 respectively, remain true today with respect to the high caliber of judges and their success in providing the community with a high quality of justice. We also want to recognize the Court for having written and published a Strategic Plan and for their follow-up in the form of four upcoming town hall meetings that will give residents in all wards an opportunity to share their views about the DC Superior Court and the Court of Appeals and to talk with court leaders about important issues facing residents throughout the District. Such outreach is an important step. We also applaud the Court's establishment of a pilot Community Court for Police Districts 6 and 7, and can report that after only a two-year period, this pilot is functioning fairly well. This court diverts people charged with low-level non-violent misdemeanors to needed services or to community service as an alternative to incarceration in an attempt to stop repeat offenders.

The establishment of a community court was one of the twenty-seven recommendations made in CCE's April 2001 report, *A Roadmap to a Better DC Criminal Justice System.* CCE's December 2003 report, *Two Years Down the Road,* is the result of a ten-month CCE study conducted last year with generous funding from Congress. The study charted the progress of

COUNCIL FOR COURT EXCELLENCE

efforts made to increase the efficiency of the DC criminal justice system based on the twenty-seven recommendations of our April 2001 *Roadmap Report*. The new report describes the work of over thirty separate government task forces that worked on aspects of the *Roadmap Report* and recognizes that, through the leadership and commitment of the DC Superior Court and other stakeholder agencies, the DC criminal justice system is indeed headed down the positive reform path. But much work remains to be done, including expanding the Court's work in applying revised scheduling practice to the felony arena, which consumes most of the police overtime related to prosecutor and court appearances.

In 2002, CCE testified before this Committee that one of the major findings of the DC Superior Court Observation projects was insufficient court-wide signage including a full building directory at least in the lobby, insufficient signage outside the courthouse, and inadequate signage in foreign languages, resulting in barriers to finding and entering the courthouse, locating where to go once inside, and obtaining other needed information. We testified two years ago that although we presented these concerns to the Court, we were disappointed to find that the very same concern was expressed in the second court observation study conducted some nine months later. It is now two years later and we are again disappointed that the Court, even with a budget request for major renovations, restoration, and repair needs, has not yet sufficiently improved their existing directories and signage.

A second concern is the Court's lack of compliance with the Americans with Disabilities Act requirements. While the Court does have a Subcommittee on Improving Court Access that includes individuals with disabilities who use the courthouse, and that some attention has been given to improving courtroom accessibility and other access issues, there are still many other barriers including the Courthouse's heavy front doors. Those doors were mentioned in a recent Washington Post District Weekly article on the challenges faced by disabled people throughout the District of Columbia.

In addition to the lack of accessibility, we submit that the Court should be more concerned with the lack of audibility of court proceedings. In CCE's Court Observers Reports, it was noted that inside the courtroom, the Court should employ a better microphone system for judges, lawyers, and witnesses because it is difficult to hear the proceedings. To our knowledge, this problem has not been resolved since both reports were issued.

CCE is also concerned about the issue of delays in production of court transcripts, which has a direct, negative impact on both the DC Superior Court and on the Court of Appeals. Although Chief Judges Wagner and King indicated to us in an April 2002 letter that the problem was on the verge of being solved, CCE still receives calls from frustrated practitioners and litigants who cannot obtain transcripts in a timely way in order to appeal their cases. It is our understanding that this problem continues today. In fact, the Courts' 2003 Annual Report shows that the average time it takes from notice of appeal to the filing of a trial court or agency record is ten months. In other words, it takes ten months before the briefing process can even start. This is a substantial reason why the overall time on appeal in the DC Court of Appeals is almost 21 months, far too long for litigants to get resolution of their cases.

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Finally, we are concerned about the lack of transparency of court information in general and budgetary information specifically from a public institution. Nearly every state court hosts its own website and many of these are excellent sources of information for the public. The DC Superior Court neither hosts its own website nor provides budget information to the public. What information is provided on the Court's website is extremely limited. Any citizen who wishes to find out how the Court's funds are being spent simply does not have access to this information; CCE's attempts to obtain copies of the Court's budget have routinely been met with resistance. While the Court prints an Annual Report, its budget other than total numbers is not included in the Annual Report, and the Report is not on its website.

We commend this Committee for your policy and fiscal leadership in overseeing the Courts in the District of Columbia and thank you for holding this oversight hearing which we believe should be done on an annual basis. We also thank the DC Courts for the plans they have laid out and the manner in which they have received our various recommendations. We continue to look forward to working with the DC Courts and with this Committee. I am happy to answer your questions at this time.

Chairman TOM DAVIS. Ms. Dahlman, thank you for being with us.

Ms. DAHLMAN. Good morning, Chairman Davis and Delegate Norton. My name is Rhonda Dahlman. I am an attorney at Legal Counsel for the Elderly in the District of Columbia, an affiliated organization of the AARP. Through funding from the Older Americans Act, we provide free legal representation to older residents of the District. On behalf of AARP, LCE and the vulnerable clients for whom I advocate, thank you for inviting us to discuss D.C. guardianship law and practice.

Guardianship must be imposed only with the full protection of the individual's due process rights. It is the court's responsibility not only to determine whether and how much guardianship is warranted but also to appoint qualified individuals to serve and to monitor the guardian to ensure that the purpose of the guardianship is being fulfilled. In short, the ward must be better off, not worse off because of the court's action.

We identify three critical areas of improvement needed within our current protective services in the court system.

First, we need qualified guardians. When there's no available or appropriate family member to serve, the court generally appoints members of the bar. In my tenure as legal counsel, I have had experience with conscientious and proactive—a word that I know you like, Delegate Norton—very proactive guardians. Unfortunately, I have also had too many experiences with guardians who are not attentive to their responsibilities and ill-equipped to make even basic decisions on behalf of their wards.

Although recently the court implemented a mandatory training for guardians and conservators in the area of probate law, additional topics should be included in the curriculum. I have experienced attorney guardians who have no knowledge in other areas of law in which their wards may be involved.

For example, I petitioned the court for a guardianship for an elderly tenant who had been committed to a mental health facility and faced eviction due to nonpayment of rent. While there was agreement that the ward would not be able to return to the community, there was no one to remove her personal belongings and store those belongings. Unfortunately—though I got an emergency guardian appointed. Unfortunately, the court-appointed guardian took 3 months to do anything for his ward; and once I found out nothing had been done, he informed me that he did not know what to do in this situation. The fact that the ward's personal belongings were not thrown out on the street was due to her housing provider who had contacted me, not her guardian.

One simple improvement would be for the court to note on its guardian conservator list those attorneys who are trained and experienced in other areas of the law that relate to the needs of the ward.

Another improvement would be to require that all court-appointed guardians and conservators attend at least two trainings a year offered by the D.C. Bar in areas of tenant law, public benefits, and consumer matters. You would be surprised at how many guardians don't understand that their wards need to recertify for Medicaid or to get on Medicaid and they don't know that process.

We also recommend that the court utilize training by qualified community social workers so that guardians are aware of the many social services in the District available to their wards.

I can tell you that neither of these recommendations would create any additional financial burden to the court.

In addition to receiving more comprehensive training, we recommend that any nonfamily guardians be certified through a written examination. Certification is one way to ensure the courts and the community that guardians have a basic understanding of their fiduciary duties and grounding in local law and practice.

We also recommend a public guardian program be instituted, even if it is somewhat of a pilot project. The program would provide guardianship services as a last resort when guardianship is appropriate but there's no qualified relative to serve. A good public guardian program would be an effective advocate for quality care in long-term care facilities which I will tell you is an area where we often find an extensive amount of neglected wards who do not have involved families.

Last, we need better monitoring of existing cases. The court appointment of a qualified guardian or conservator is merely a first step. The court has ongoing responsibility to ensure that guardians promote the welfare of those in their care. Most often, guardianship petitions are filed because there is looming health or safety risk faced by the subject. If the court, like in other areas of the courthouse, set status hearings in appropriate cases subsequent to the appointment of the guardian, it would inherently provide the court with direct oversight.

D.C., like all States, requires guardians and conservators to account to the court on a regular basis. Beyond that requirement and compared to other States, the D.C. code provides little guidance as to how the courts are to carry out its monitoring responsibilities. Chief Judge King is to be commended for his recent efforts to tighten the process, but there is still much room for improvement. Notices of appointments are sometimes taking weeks to get to the newly appointed conservator and guardians. If the court had a separate monitoring team that reviewed cases regularly, there would be much less room for court administrative errors and guardian neglect of this most vulnerable population.

Thank you for the opportunity to discuss with you the way older D.C. residents who need protection of the court find justice they deserve and to which they are entitled, and I will be glad to answer questions.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Ms. Dahlman follows:]

STATEMENT

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

OF THE

U.S. HOUSE OF REPRESENTATIVES

ON

THE OPERATIONS AND CASE MANAGEMENT OF THE
D.C. SUPERIOR COURT

APRIL 23, 2004

2154 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C.

For further information, contact:

Rhonda Dahlman
Legal Counsel for the Elderly
(202) 434-2155

Good morning Chairman Davis, Ranking Member Waxman and Delegate Norton. My name is Rhonda Dahlman and I am an attorney with Legal Counsel for the Elderly (LCE) in the District of Columbia. LCE receives Title IIIB funding under the Older Americans Act to provide free legal representation to older Washington, D.C. residents. We are also supported by AARP. On behalf of AARP, LCE and the incapacitated and vulnerable clients I represent, thank you for inviting us here this morning to discuss D.C. guardianship law and practice. LCE and AARP have long been concerned about the court process to protect our most vulnerable residents and have been active in D.C. and across the nation to improve the guardianship system.

Guardianship, the most intrusive civil intervention in the lives of persons with diminished capacity, is sometimes necessary. However, it must be imposed only with full protection of the individual's due process rights, with a commitment to finding the least restrictive intervention that will meet the needs of the individual, and with due respect for each individual's rights to privacy, independence and self-autonomy. As Judge Glickman of the D.C. Court of Appeals said, "The appointment of a guardian and a conservator is an extraordinary intervention in a person's life and affairs, and the [D.C. Code] lays out standards and procedures that are designed to ensure careful consideration and respect for the rights of the subject of the proceeding."[1] The only reason to create a guardianship is to protect the personal and financial well-being of an incapacitated person. It is the court's responsibility not only to determine whether and how much guardianship is warranted, but also to appoint the most qualified individual to serve and to monitor the guardian or conservator to ensure that the purpose of guardianship is being fulfilled. In short, the ward must be better off, not worse off, because of the court's actions.

The Associated Press, in its landmark 1987 series *Guardians of the Elderly: An Ailing System,* called attention to a long list of deficiencies in the guardianship process. It charged at that time that guardianship "regularly puts elderly lives in the hands of others with little or no evidence of necessity, then fails to guard against abuse, theft and neglect." Significant strides have been taken in the District of Columbia and across the country to rectify many of the glaring abuses within the guardianship system. In December 2001, a multidisciplinary cadre of guardianship advocates from across the country[2] convened the Second National Guardianship Conference (called the Wingspan Conference) to examine the progress made during the 1990's to best take care of persons and their property when they are not able to do so, and to ensure that society steps in only when necessary and only to the extent necessary.[3] The Conference participants discussed many reforms that have been implemented across the country, but noted that problems remain with ill-trained guardians failing to perform their basic responsibilities, wide variances in funding, inadequate monitoring, and failure of available alternatives to obviate the need and

[1] In re Orshansky, 2002 D.C. App. LEXIS 488, 488 (2002).

[2] The approximately seventy-five conference participants included representatives from AARP, the National College of Probate Judges, National Academy of Elder Law Attorneys, National Guardianship Association, Borchard Foundation Center on Law and Aging, Stetson University College of Law, American Bar Association Commission on Legal Problems of the Elderly, its Section on Real Property, Probate and Trust Law, American College of Trust and Estate counsel, Center for Medicare Advocacy, Arc of the United States, and Academy of Florida Elder Law Attorneys.

[3] Opening Remarks of Richard Van Duizend, Executive Director of the National Center of State Courts, in Introduction, 31 STETSON L. REV. 573, 575 (2002).

demand for guardianships and conservatorships.[4] I will reference several of the recommendations coming out of the Wingspan Conference that support the remarks I will be making today.

The D.C. Guardianship and Protective Proceedings Act is a good law and compares favorably to other states' laws. The majority of the provisions in the law are taken from the Uniform Guardianship and Protective Proceedings Act approved by the American Bar Association (ABA) in 1983. Other provisions are based on the Model Guardianship and Conservatorship Statute drafted by the ABA Commission on the Mentally Disabled. The statute offers the full panoply of due process rights to the alleged incapacitated persons we expect to see in all guardianship or conservatorship statutes. These include notice of the proceedings, including personal service on the subject of the proceedings,[5] appointment of a guardian ad litem to prosecute or defend the individual's interests, when necessary,[6] pre-hearing investigation by a court examiner,[7] a court visitor's interview,[8] appointment of counsel with a statutory duty to zealously represent the individual's interests,[9] and, of course, the right to a hearing.[10]

The D.C. law recognizes the varying degrees of incapacity that exist and provides a wide range of alternatives to ensure that any loss of liberty can be limited to the actual needs of the individual. An individual found to be incapacitated retains all legal rights and abilities not expressly taken away.[11] Before appointing a guardian, the court must find by clear and convincing evidence[12] that the guardianship is necessary to provide care and supervision of the person[13] and make all orders only to the extent necessitated by the individual's limitations.[14] Respect is accorded to the individual's right to plan for his or her own autonomy, by giving preference to the agent selected in a power of attorney or other expressed choice for a guardian.[15] Before appointing a conservator, the court must find that the individual has property that will be wasted or dissipated unless property management is provided or money is needed for the support, care and welfare of the individual.[16] Guardians and conservators are required to report back to the court on the ward's condition and provide accountings on the management of the individual's finances.[17] On its face, the D.C. statute is structured to provide justice to D.C. residents with diminished capacity who require a guardian or conservator.

In addition to the statutory provisions for pre-hearing investigations, examinations, and reports by a variety of guardians ad litem, visitors, and examiners, D.C. also has an Adult Protection Arrangement Panel. This interdisciplinary group of health care, social work and legal

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[4] *Id.*
[5] D.C. CODE §§ 21-2031, 21-2053 (2004).
[6] D.C. CODE § 21-2033(a) (2004).
[7] D.C. CODE § 21-2041(d) (2004).
[8] D.C. CODE § 21-2033(c) (2004).
[9] D.C. CODE §§ 21-2033)(b), 21-2043(a) (2004).
[10] D.C. CODE §§ 21-2041(d), 21-2054(a) (2004).
[11] D.C. CODE § 21-2004 (2004).
[12] D.C. CODE § 21-2003 (2004).
[13] D.C. CODE § 21-2004 (2004).
[14] D.C. CODE §§ 21-2044(a), 21-2055(a) (2004).
[15] D.C. CODE § 21-2043(b) (2004). *See* In re Orshansky, 2002 D.C. App. LEXIS 488 (2002).
[16] D.C. CODE § 21-2051(b) (2004).
[17] D.C. CODE §§ 21-2047(a)(5), 21-2065 (2004).

professionals with experience in senior services was created by LCE and other community organizations and has been in operation for many years. The panel meets monthly (or more frequently, if needed) to assess the individual and complex nature of a particular client's situation. We work together strategizing ways to implement the least restrictive protective options and to keep an individual out of guardianship if at all possible. Cases are brought to the panel by community social workers, families and sometimes housing providers who are working with persons whose capacity is in question and who face a health and/or safety risk. In many instances, the panel is able to determine a less restrictive alternative, such as a power of attorney, or representative payee. We are also able to assist people in locating and utilizing support services for the incapacitated person so they can continue to live independently as long as possible.
A number of jurisdictions across the country have found success in using similar multi-disciplinary programs to avoid the need for guardianship. One Wingspan recommendation calls for the increased reliance on such multi-disciplinary panels, recognizing that in the most difficult cases there may be a full range of medical, financial and social needs that must be addressed.[18] It is critical that all social workers who handle self neglect cases bring them before this panel so that cases are not needlessly brought into the court system.

We identify three critical areas of improvement needed within our current protective services in the court system.

Qualified guardians

The District of Columbia, as well as states across the country, faces a shortage of qualified guardians and conservators. When there is no available or appropriate family member to serve, the courts must look elsewhere. If there is no spouse, adult child, or relative, the D.C. court may appoint "any other person … the court deems best qualified to serve."[19] The general practice in the District of Columbia is for the court to appoint members of the bar. In my tenure at LCE, I have had experience with exceptionally conscientious and proactive attorney guardians/conservators. I also have had too many experiences with guardians and conservators who are not attentive to their responsibilities and are ill-equipped to make complicated, or even basic, social and medical decisions on behalf of their wards.

Although recently the court implemented a mandatory training for guardians and conservators — which is absolutely necessary — additional topics should be included in the curriculum. I've encountered attorney guardians who have very little experience in other areas of law in which their wards are involved. For example, I petitioned the Court for a guardianship for Ms. N. who had been committed to a mental health facility. She was then facing eviction from her apartment due to nonpayment of rent. While there was agreement by her health care team that Ms. N would not be able to return to the community, there was no one to collect her belongings and to guarantee adequate placement in the community. The housing provider in this case was quite considerate of the situation and apprised me of the impending eviction. I obtained an emergency guardian for Ms. N given the impending eviction. Unfortunately, the guardian took three months to do anything for his ward and informed me that he did not know what to do in this situation. The fact that Ms. N's personal belongings were not thrown out on the street was due to the housing provider – and not Ms. N's guardian.

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[18] Wingspan Recommendation 23, 31 STETSON L. REV. 596, 599 (2002).
[19] D.C. CODE § 21-2043(c)(5), (d) (2004).

One simple improvement, with little cost or administrative burden, would be for the court to note on the guardian/conservator list those qualified attorneys who are trained and experienced in other areas of the law, for example landlord/tenant, that relate to the foreseen needs of the ward.

These conservator/guardians should also have a basic understanding on how to obtain Medicaid and other benefits to which their wards may have a right. One way to address this need that would create no added court expense is to mandate that any court-appointed guardian/conservator attend at least two trainings a year offered by the D.C. Bar in the areas of landlord/tenant law, public benefits, consumer matters, etc.
AARP believes that states should enact laws that require all guardians to receive adequate training and information about their responsibility and requirements.[20] A Wingspan recommendation similarly urges that "All guardians receive training and technical assistance in carrying out their duties."[21] Family guardians, as well as attorney guardians, must have the opportunity to be educated as to their role and responsibilities.

We also recommend that, in addition to receiving training, any non-family guardians be certified.[22] Certification, in general terms, means that the individual has demonstrated, through a written examination, competency to serve as guardian or conservator. Certification is one way to assure the courts and the community that guardians have a basic understanding of their fiduciary duties and grounding in local law and practice. Arizona,[23] Washington[24] and Florida[25] each mandate that all guardians who serve multiple unrelated wards be certified.[26] The National Guardianship Foundation has been certifying guardians on a voluntary basis since 1998. Currently there are over 700 NGF certified guardians across the country, but not one practices in the District of Columbia.[27] NGF-certified guardians are required affirm that they will comply with a national code of ethics and standards of practice and obtain ten hours of continuing education each year. Guardians who are removed for cause, neglect or abuse of their responsibilities, or are found liable in a subrogation action on their bond, lose their certification. In states where certification is mandatory, losing certification prevents their appointment to any new case and the reassignment of their existing cases.

Public Guardian

To further address the availability of qualified guardians, we recommend that the District of Columbia develop a public guardian program. The program would provide guardianship services as a last resort when guardianship or limited guardianship is appropriate but there is no

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[20] THE POLICY BOOK: AARP PUBLIC POLICIES 2004, 13-10 (2004).
[21] Wingspan Recommendation 9, 31 STETSON L. REV. 596, 597 (2002).
[22] THE POLICY BOOK: AARP PUBLIC POLICIES 2004, 13-10 (2004).
[23] ARIZ. REV. STAT. § 14-5651 (2003).
[24] WASH. REV. CODE § 11.88.020(2003). Washington has yet to implement the examination portion of its certification process.
[25] FLA. CODE § 744.1085 (2004).
[26] Sally Balch Hurme & Erica Wood, Guardian Accountability Then and Now: Tracing Tenets for an Active Court Role, 31 STETSON L. REV. 865, 885-892 (2002). *See also*, Wingspan Recommendation 46, "Professional guardians—those who receive fees for serving tow or more unrelated wards—should be licensed, certified, or registered. They should have the skills necessary to serve their wards. Professional guardians should be guided by professional standards and codes of ethics, such as the National Guardianship Association's *Model Code of Ethics for Guardians* and *Standards of Practice*."
[27] The list of NGF Registered Guardians is available at www.guardianship.org.

qualified relative to serve.[28] A good public guardian program would be an effective advocate for quality care in long-term care facilities, an area where we often find neglected wards who do not have involved family. Any public guardian program must be adequately funded, have a limit on the number of wards served, require adequate liability insurance for the wards' protection, and adhere to mandatory conflict-of-interest standards.

Court Monitoring

We need better monitoring of the existing cases. Monitoring is not premised on the assumption that all or most guardians and conservators are abusing or neglecting their responsibilities. It is based on the inherent purpose of guardianship and society's role in protecting the vulnerable. Guardianship exists not to find that a person is incapacitated and then be done with it. Rather, guardianship exists to protect a vulnerable person. The appointment of a qualified guardian or conservator is merely the first step. The court has an ongoing responsibility to oversee that guardian as he or she promotes the welfare of those in his or her care.

The District of Columbia, like all states, requires guardians and conservators to account to the court on a regular basis. Beyond that requirement and compared to other states, the D.C. Code provides little guidance as to how the court is to carry out its monitoring responsibilities. Chief Judge King is to be commended for his recent efforts to tighten the process, but there is still much room for improvement. As just one example, reminder notices of due reports go to the wrong counsel on a regular basis.

The court needs funds to support investigatory personnel qualified to audit accounts, conduct forensic accountings, visit wards in their residences, and investigate complaints from the community. Court staff needs to be augmented so that they are able to do more than put out brush fires. If the court had a separate monitoring team that reviewed cases regularly, there would be much less room for neglect and financial abuse of this most vulnerable population.

There are low-cost options to enhance monitoring that have been successfully employed in other courts. Probate Court #2 in Tarrant County, Texas, uses social work student interns as pre- and post-appointment court visitors. Other courts use trained volunteers, such as retired CPAs, to examine accountings or visit wards. LCE in the past developed a national model project using volunteers to assist courts in their monitoring responsibilities. In Maryland, a volunteer multi-disciplinary committee reviews each public guardianship case at an annual face-to-face meeting with the guardian, ward and ward's attorney present. Virginia guardianship reports are filed with the Department of Social Services, which must review them and inform the court of any report more than ninety days delinquent. Judges in other jurisdictions have suggested sending copies of personal status reports to "interested persons" who would then have the opportunity to notify the court of circumstances not disclosed in the report. Another possible source of help to the court in straightening out bungled accountings is free-lance probate paralegals.[29]

Thank you, Mr. Chairman, for the opportunity to discuss with you ways older D.C. residents who need the protection of the court find the justice they deserve and to which they are entitled.

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[28] THE POLICY BOOK: AARP PUBLIC POLICIES 2003, 13-10 (2004). *See also*, Wingspan Recommendation 44, 31 STETSON L. REV. 596, 604 (2002), "States [should] provide public guardianship services when other qualified fiduciaries are not available."

[29] Hurme & Wood, *supra* n. 26, at 904-908.

Chairman TOM DAVIS. Mr. Ward.

Mr. WARD. Good morning. I have been practicing law in the District of Columbia since 1967, principally in the fields of trust and estates. I have served on the Superior Court Advisory Committee on Probate and Fiduciary Rules since 1975. During 1987 and 1988, I served as consultant register of wills for 9 months. My co-authored book, "Wills, Trusts and Estates," is about to published in its fourth edition.

The Office of the Register of Wills dates back to February 27, 1801; and the register of wills was a Presidential appointee until 1946. The register of wills continues as a statutory office under Title 11 of the D.C. code and is appointed by the superior court. Under the provisions of the Home Rule Act, the City Council may not enact any act, resolution or rule with respect to any provision of Title 11. Several salutary changes to the statutory operations of the register of wills, accordingly, may only be made by the Congress.

I offer three proposed changes that Congress ought to make to Title 11.

One, in Maryland since 1970 a register of wills may sign an order admitting a will to probate and appoint a personal representative. When the City Council adopted the Probate Reform Act of 1980, it concluded that it could not give this power to the register of wills stating: that earlier proposals to increase the powers and responsibilities of the register of wills with respect to uncontested estate administration issues would involve amending Title 11 of the D.C. code and thus be beyond the jurisdiction of this council.

There are 2,500 new decedents' estates opened each year in the District of Columbia. If the judges had 2,500 fewer orders to sign, they would have more time to devote to matters more suited to their skills and the register would spend less time writing up advisory slips for the judges. Please give the register of wills the authority to admit wills to probate and appoint personal representatives in testate and intestate cases.

Two, guardians appointed in an intervention proceeding are obliged to file guardianship reports every 6 months on a court-developed form. It was determined by the register of wills and the Advisory Committee on Probate and Fiduciary Rules when the rules to implement the intervention act were being written that the Office of the Register of Wills would not "audit" these reports as the Office did not have anyone on the staff who really had social worker type competence to audit the reports. The role of the Office would simply be to monitor the filing of the reports but not their content.

While there is a director of social services in the superior court, this director has no jurisdiction over any adult under supervision. While the officer of the District of Columbia courts may appoint such personnel as may be needed by the register of wills, rather than put the register of wills in the middle of what could be arguably be an unwanted expansion of the powers of the Office without a statutory predicate, the Congress should amend the provisions of Title 11 to create the position of auditor of social services to be filed by a trained social worker who could both develop a new, more meaningful guardianship report and monitor the contents filed of

guardianship reports to ensure that the wards are receiving minimally adequate care.

Three. Conservators in intervention proceedings are given statutory power to invest their ward's assets as would a trustee. The court rules provide a prudent investor standard for fiduciary investment by fiduciaries reporting to the court, but, other than advising fiduciaries that bank balances must be kept within Federal insurance limits as required by the Intervention Act, the auditors rarely question investments because they are not trained to recognize a bad investment from a good one.

If the register of wills had an investment officer who was trained in investments, the register of wills could much better monitor the conservator's investments of a ward's assets. Again, not to put the register of wills in the middle, the Congress should amend Title 11 to create the position, and definition of requirements for, an investment officer in the Office of the Register of Wills.

Three other matters not requiring a solution by an act of Congress. Joint control. When a fiduciary is required to post bond, the bonding companies require the fiduciary to file an application for a bond. If the fiduciary cannot qualify for the bond, the fiduciary cannot be appointed. A practice developed where the bonding companies agreed to write the bond if the bank would agree not to honor checks unless cosigned by the fiduciary's attorney acting on behalf of a surety, a practice which has received statutory recognition.

The court in the recent past decided not to permit this practice to continue. The effect is to force fiduciaries to make their attorney a cofiduciary, thereby setting a possible conflict of interest between the attorney's duty to the client and the attorney's duty as a fiduciary to the ward or the estate. The committee should admonish the Probate Division to reinstate joint control.

Two. When the will is a safe deposit box solely titled in the name of the decedent, the practice used to be for the register of wills to send one of the appraisers to the bank. The safe deposit box would be opened, and only the will removed and taken to the court for filing. The court rules provide a fee for this, which is $25.

In 1998, the register of wills discontinued this practice and substituted the filing for an appointment of the special administrator, a much more cumbersome procedure and unnecessary. The rationale was that there was no statutory basis for the practice in that banks were unfamiliar with it. This committee should admonish the register of wills to reinstate the practice of sending a representative from the office to attend safe deposit box openings to search for a will.

Three, and last. Appointing counsel for the subject as the conservator for the ward deprives the subject of a zealous representation when counsel sees a lucrative opportunity to become the conservator of a wealthy ward. Counsel appointed for the subject is supposed to provide zealous representation. Counsel also is supposed to advocate the least restrictive intervention possible. But if counsel knows there is a good chance counsel will be appointed conservator, why should we believe counsel will advocate not appointing a plenary conservator? The committee should admonish the

Probate Division not to appoint counsel for the subject as the conservator for the ward.

Thank you for listening.

Chairman TOM DAVIS. Thank you very much. That was fast reading, but we got it in under the time.

[The prepared statement of Mr. Ward follows:]

COMMITTEE 0N GOVERNMENT REFORM
OVERSIGHT HEARING TO REVIEW
OPERATIONS AND CASE MANAGEMENT OF PROBATE DIVISION
SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PRESENTATION OF NICHOLAS D. WARD

My name is Nicholas D. Ward. I have been practicing law in the District of Columbia since 1967, principally in the field of trusts and estates. I have served on the Superior Court Advisory Committee on Probate and Fiduciary Rules since 1975, and during 1987-88, I served as Consultant Register of Wills for nine months. My co-authored book, *Wills, Trusts and Estates,* is about to be published in its Fourth Edition.

The Office of the Register of Wills dates back to February 27, 1801, and the Register of Wills was a Presidential appointee until 1946.[1] The Register of Wills continues as a statutory officer, under *D.C. Code §§ 11-2101-2106,* appointed by the Superior Court. Under the provisions of the Home Rule Act[2] the City Council may not enact any act, resolution, or rule with respect to any provision of Title 11. Several salutary changes to the statutory operations of the Register of Wills, accordingly, may only be made by the Congress. I offer three proposed changes the Congress should make to Title 11 of the D.C. Code.

1. In Maryland since 1970 a Register of Wills may sign an order admitting a will to probate and appointing a personal representative.[3] When the City Council adopted the Probate Reform Act of 1980, it concluded that it could not give this power to the Register of Wills, stating

> "...that earlier proposals to increase the powers and responsibilities
> of the Register of Wills with respect to uncontested estate administration
> issues would involve amending title 11 of the D.C. Code and thus
> be beyond the jurisdiction of this Council."[4]

There are about 2,500 new decedent's estates opened each year in the District of Columbia. If the Judges had 2,500 fewer orders to sign they would have more time to devote to matters more suited to their skills and the Register would spend less time writing up advisory slips for the Judges. Please give the Register of wills the authority to admit wills to probate and to appoint personal representatives in testate and intestate cases.

2. Guardians appointed in an Intervention Proceeding[5] are obliged to file a Guardianship Report

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[1] *Mersch, Probate Court Practice,* 2nd Ed ,p. 3 (1952)

[2] *D.C. Code § 1-206.02(a)(4)*

[3] *Estates and Trusts Article of the Annotated Code of Maryland § 5-302*

[4] *Report of Committee on the Judiciary, March 12, 1980,* page 5.

every six months,[6] on a Court developed form (II-M). It was determined by the Register of Wills and the Advisory Committee on Probate and Fiduciary Rules when the rules to implement the Intervention Act were being written, that the Office of the Register of Wills would not "audit" these reports as the Office did not have anyone on the staff who really had social worker type competence to audit the reports. The role of the Office would be simply to monitor the filing of the reports, but not their content. While there is a Director of Social Services in the Superior Court, this Director has no jurisdiction over any adult under supervision.[7] While the Officer of the District of Columbia courts may appoint such personnel as may be needed by the Register of Wills,[8] rather than put the Register of Wills in the middle of what could arguably be an unwarranted expansion of the powers of the Office without a statutory predicate, the Congress should amend the provisions of title 11 to create the position of auditor of social services to be filled by a trained social worker who could both develop a new, more meaningful Guardianship Report and monitor the contents of filed Guardianship Reports to ensure that the wards are receiving minimally adequate care.

3. Conservators in Intervention Proceedings are given statutory powers to invest their ward's assets as would a trustee.[9] The Court rules provide a prudent investor standard for fiduciary investment by fiduciaries reporting to the Court.[10] Other than advising fiduciaries that bank balances must be kept within federal insurance limits, as required by the Intervention Act,[11] the auditors rarely question investments, because they are not trained to recognize a bad investment from a good one. If the Register of Wills had an investment officer who was trained in investments the Register of Wills could much better monitor the conservator's investments of the ward's assets. Again, not to put the Register of Wills in the middle, the Congress should amend title 11 to create the position of, and define the requirements for, an investment officer in the Office of the Register of Wills.

Other matters not requiring for solution an Act of Congress

1. Joint Control. When a fiduciary is required to post a bond the bonding companies require the fiduciary to file an application for a bond. If the fiduciary cannot qualify for the bond

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[5] *D.C. Code § 21-2001 et seq.*

[6] *D.C. Code § 21-2047(a)(5)* and *SCR-PD 328(a)*

[7] *D.C. Code § 11-1722*

[8] *D.C. Code § 11-2105*

[9] *D.C. Code § 21-2070(b)*

[10] *SCR-PD 5*

[11] *D.C. Code § 21-2070(c)(6)*

the fiduciary can not be appointed. A practice developed where the bonding companies agreed to write the bond if the bank would agree not to honor checks unless co-signed by the fiduciary's attorney acting on behalf of the surety, a practice which has received statutory recognition.[12] The Court in the recent past decided not to permit the practice to continue. The effect is to force fiduciaries to make their attorney a co-fiduciary, thereby setting a possible conflict of interest between the attorney's duty to the client and the attorney's duty, as the fiduciary, to the ward or estate. This Committee should admonish the Probate Division Judges to reinstate Joint Control.

2. When the Will is in a safe deposit box solely titled in the name of the decedent the practice used to be for the Register of Wills to send one of the appraisers the bank. The safe deposit box would be opened and only the Will removed and taken to the Court for filing. The Court rules provide the fee for this, which is $ 25.[13] In 1998 the Register of Wills discontinued this practice and substituted the filing for the appointment of a special administrator, a much more cumbersome procedure and unnecessary. The rational was that there was no statutory basis for the practice and the banks were unfamiliar with it. This Committee should admonish the Register of Wills to reinstate the practice of sending a representative from the Office to attend safe deposit box openings to search for a will.

3. Appointing counsel for the subject as the conservator for the ward deprives the subject of a zealous representation when the counsel sees a lucrative opportunity to become the conservator of a wealthy ward. Counsel appointed for the subject is supposed to provide a zealous representation.[14] Counsel is also supposed to advocate the least restrictive intervention possible.[15] But if counsel knows there is a good chance counsel will be appointed conservator why should we believe counsel will advocate not appointing a plenary conservator. This Committee should admonish the Probate Division Judges not to appoint counsel for the subject as the conservator for the ward.

Thank you for listening.

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[12] *D.C. Code § 20-741(5)*

[13] *SCR-PD 425(c)*

[14] *D.C. Code § 21-2033(b)*

[15] *D.C. Code § 21-2055(a)*

Chairman TOM DAVIS. Mr. Curtin, thank you.

Mr. CURTIN. Mr. Chairman, Congresswoman Norton and other committee members, I very much appreciate the committee's offer to testify before you today.

Mr. Chairman, in your letter dated April 20th, the committee solicited my views on the appointment, responsibilities and accountability of the register of wills and her staff as well as the relationship of the register of will's office with practitioners, and presumably the public, as well as the adequacy of the current reporting requirements for conservators and the enforcement of these requirements. You have also asked that I comment on the use of new technologies to streamline guardianship and conservatorship administration. I am not a tech geek, if you will, Mr. Chairman, so I will leave the comment on new technologies to more learned folks than myself.

Having practiced almost exclusively in the Probate Division since its inception in 1972, and 3 years before that in the U.S. District Court, the court that formerly had jurisdiction over trust and estate matters here in the District, as well as having been employed as the deputy register of wills in that office from 1966 to 1969, I appear before you with certain ingrained prejudices and/or biases concerning just about every facet of the Probate Division's work.

I was fortunate to serve as the reporter for the initial Advisory Rules Committee formed in 1971 to draft rules governing the administration of estates, guardianships of minors, and guardianships and conservatorships of incapacitated adults. It is my honor to have served on that committee with members of the bench and bar for more than 23 years. The role of that committee and all of its successors was to draft those rules of procedure in the administration of estates, guardianships and conservatorships in accordance with the statutory framework first promulgated by the U.S. Congress and, since 1972, the District of Columbia City Council.

So that the committee can get a full flavor of this rulemaking process and how it works, let me mention that the members of the Advisory Committee are selected by the chief judge of the superior court, and consistently have included members of the bar with particular expertise and experience in matters that were handled or brought before the Probate Division.

In addition, it has been a consistent practice that a number of superior court judges, including those judges assigned to the Probate Division sit on the Advisory Rules Committee. The work of that committee since its inception has been to periodically meet to discuss and propose modifications for existing rules as well as new rules that may be deemed appropriate to more efficiently implement statutory schemes governing the works of the Probate Division. Those rules are thereafter reviewed by the Rules Committee of the Board of Judges of the superior court, and then, if deemed appropriate by that committee, submitted to the full Board of Judges of the superior court for approval. They are thereafter put out for public comment, and after a period of time promulgated as rules of the court. I think we can all agree that process is very open and transparent.

Having provided you that thumbnail sketch of the rulemaking process in the court, now let me tie that process directly into your committee's focus this morning. The register of wills as well as key deputies and other senior staff of that office have either been members of the Advisory Committee or acted as staff available to the Advisory Committee in drafting the proposed rules.

Can the rulemaking process governing the Probate Division be improved? Although as indicated above there is significant openness and transparency to the process, one suggestion in that record would be to have the court consider having Advisory Committee members expanded to include one or more health care professionals or social workers who could lend a nonlegal perspective to the discussion and debate, at least in deliberating over the drafting of rules affecting guardianships and conservatorships of incapacitated adults.

The appointment, responsibilities and accountability of the register of wills and her staff. As I am sure you have heard from the court personnel here this morning, and as Mr. Ward just alluded, the register of wills is, in fact, appointed by a Board of Judges of the superior court pursuant to Chapter 21 of Title 11 of the D.C. code.

In addition to the duties, powers and responsibilities set forth in Chapter 21 of Title 11, a specific Probate Division court rule authorizes and, in fact, instructs the register of wills to review all ex parte matters and to make recommendations to a Probate Division judge as to whether or not a proposed order should be signed as submitted. This review process entails the register or one of her deputies reviewing the request for ex parte relief and providing a written recommendation to the court for that purpose. The written recommendations become part of the court file.

While not a statutorily defined duty, the register of wills, by virtue of existing court rules, is obligated to advise the court of any irregularity perceived in connection with the administration of decedents' estates, guardianships of minors, or conservatorships and guardianships of incapacitated adults. These irregularities can run the gamut of failing to file statutorily mandated or rule-mandated inventories or accounts and/or failure to comply with audit requests made by the staff of the register of wills. The current register of wills, the Honorable Constance Starks, has held that position since 1988. Since that time there have been no less than four significant, far-reaching and sweeping changes in the guardianship/conservatorship statute or the administration of decedent estates, and most recently a version of the Uniform Trust Act has been adopted by the District of Columbia.

All of these statutory changes have required substantial revisions of the rules and procedures as well as undertakings that govern and guide practitioners and the general public in this area of the law. The amount of the work done by the register of wills and her staff, as well as the organized bar and bench, in adopting rules and procedures consistent with these numerous changes has been remarkable. I think it is important to note that all of these changes were implemented without an ostensible hitch or disruption in the administration of the decedents' estates or conservatorships or guardianships.

I recognize that the purpose of this hearing or for my testimony is not to articulate the nuances or the good points or bad points of these numerous statutes. I mention them only so that the committee can get an understanding of how administratively the Office of the Register of Wills positively coped or dealt with the changes in procedure and administration due to the changes in the statutes. I hasten to add that approximately in that same period of time, the staff at the register of wills office has been reduced from 82 to less than 50.

I think everyone here at this hearing this morning will agree that the articles that appeared in the Washington Post in June 2003 were not the best days for the Superior Court of the District of Columbia. Washington Post reporters did an extensive study of estate, guardianship and conservatorship proceedings that had been instituted within the Probate Division in the last 8 to 10 years prior to that article being published.

I am morally certain that the survey of available cases during that time exceeded 20,000. In the 2 days of the Post article, they highlighted no less than 10 cases of egregious conduct, where unchecked behavior, where misfeasance or nonfeasance were not challenged, and in one case outright theft by a personal representative of the decedent's estate in the hundreds of thousands of dollars.

In partial response to a question you tendered, Congresswoman Norton, I hasten to add that as to that just mentioned example of theft by a personal representative, that individual was not a lawyer, and there was nothing, absolutely nothing, that either the register of wills office or the court could have done to prevent that theft. The estate was operating under a statutorily mandated, unsupervised administration, and until a complaint was filed by an interested person, there was no way that the theft could have been either detected nor prevented.

Nonetheless, I believe the stories were a wake-up call. It was a wake-up call for the register of wills office, it was a wake-up call for the court, and it was a wake-up call for the bar. The chief judge, in consultation with the presiding judge of the Probate Division, immediately took steps to deal with the perceived pattern of conduct that allowed the irregularities and abuses cited in those articles to be visited upon the citizens of D.C. The chief judge's administrative order forthrightly spoke to the practicing bar in unequivocal terms that we must do better. We have rules to be observed, we have deadlines to be met, and failure to do so in the future will, in fact, have consequences.

In the weeks and months since the Washington Post article and the famous administrative order issued by the chief judge immediately following those articles, there have been rumors and grumblings by the organized bar about the draconian nature of Chief Judge King's order and the register of wills' implementation of that order.

Chief Judge King properly perceived the problem within the Probate Division and entered an order that had to be implemented. I respectfully suggest to the committee, to the extent that there has been an interest in this dynamic, that the grumblings had more to do with shooting the messenger, the implementer, than anything substantive.

In the passage of time, the administrative order has been amended on two different occasions. While I am not fully certain, I believe these amendments have addressed the articulated and, maybe in some instances, legitimate concerns of the members of bar without diluting the message that comes loud and clear from Judge King's order: Filings will be made timely, irregularities will be dealt with directly, and those fiduciaries abusing their responsibilities will be dealt with appropriately.

In conclusion, Mr. Chairman, I commend your committee and its members for its desire to make sure that the superior court and the various divisions continue to provide outstanding service in the administration of justice to the citizens of the District of Columbia. In that role I urge you to continue to encourage and, yes, even prod the Congress and the executive branch of the District of Colombia government to provide resources necessary to continue this work and to enhance the services to be afforded to the citizens of the District.

I thank you for your time. I will take any questions that you may want to present.

Chairman TOM DAVIS. Thank you.

[The prepared statement of Mr. Curtin follows:]

Statement of
Michael F. Curtin, Esq.

To The House of Representatives
Committee on Government Reform

Regarding the Responsibilities and Accountability of the Register of Wills, the Relationship of the Register of Wills Office with the Bar and the Public and the Adequacy of the Reporting Requirements and Enforcement of those Requirements in Conservatorship and Guardianship Matters

April 23, 2004

Mr. Chairman, Congresswoman Norton and other Committee members. I very much appreciate the Committee's offer to testify before you today. Mr. Chairman, in your letter of April 20th, the Committee solicited my views on the appointment, responsibilities and accountability of the Register of Wills and her staff as well as the relationship of the Register of Wills Office with practitioners (and presumably the public), as well as the adequacy of current reporting requirements for conservators and the enforcement of these requirements. You have also asked that I comment on the use of new technologies to streamline guardianship and conservatorship administration.

Having practiced almost exclusively in the Probate Division since its inception in 1972 (and for three years before that in the U.S. District Court, the court that formerly had jurisdiction over trust and estate matters here in the District of Columbia) as well as having been employed as a Deputy Register of Wills in that Office from 1966 to 1969, I appear before you with certain ingrained prejudices and/or biases concerning just about every facet of the Probate Division's work. I was fortunate to serve as the Reporter for the Initial Advisory Rules Committee, first formed in mid-1971 to draft rules and procedures governing the administration of decedent's estates, trusts, guardianships of minors, and guardianships and conservatorships of incapacitated adults. It was my honor to have served on that committee with members of the bench and bar for more than 23 years. The role of that committee and all of its successors was to draft those rules of procedure in the administration of estates guardianships and conservatorships in accordance with the statutory framework first promulgated by the U.S. Congress, and since 1972, the District of Columbia City Council.

So that the Committee can get a full flavor of how this rule-making process works in practice, let me hear mention that the members of the committee are selected by the Chief Judge of the Superior court and consistently has included members of the bar with particular expertise and experience in matters that were handled or brought before the Probate Division. In addition, it has been a consistent practice that a number of Superior Court Judges, including those Judges assigned to the Probate Division, sit on the Advisory Rules Committee. The work of that Committee since its inception has been to periodically meet to discuss and propose modifications to existing rules as well as new rules that may be deemed appropriate to more efficiently implement the statutory scheme governing the work of the Probate Division. These proposed rules are thereafter reviewed by the Rules Committee of the Board of Judges of the Superior Court and then, if deemed appropriate by that Committee, submitted to the full Board of Judges of the Superior Court. They are thereafter put out for public comment and after a period of time promulgated as Rules of the court. I think we can all agree that the process is very open and transparent.

Having provided you with that thumbnail sketch of the Rule making process, now let me tie that process directly into your Committee's focus for this morning. The Register of Wills, as well as key Deputies and/or other senior staff of the Register of Wills Office have either been members of the Advisory Committee or acted as staff available to the Advisory Committee in drafting the proposed rules.

Can the Rule-Making Process be Improved?

Although, as indicated above, there is significant openness and transparency to the process, one suggestion in that regard would be to have the Court consider having Advisory Committee membership expanded to include one or more health care professionals or social

workers who could lend a non-legal perspective to the discussion and debate, at least in deliberating over and drafting rules affecting guardianships and conservatorships of incapacitated adults.

As I am sure the testimony of others will have laid out the workings of the Probate Division, I reiterate that there are two Judges assigned to the Probate Division, one as Presiding Judge and the other as Deputy Presiding Judge. These assignments or appointments usually run two to three years. In addition to conducting hearings as well as trials that grow out of adversarial proceedings that are filed in the Probate Division, Probate Division Judges review and sign submitted ex-parte orders in connection with the administration of decedent's estates, guardianships for minors as well as guardianships or conservatorships of incapacitated adults.

Appointment, Responsibilities and Accountability of the Register of Wills and her Staff.

As I am sure you have heard from Court personnel testifying here today, the Register of Wills is in fact appointed by the Board of Judges of the Superior Court, in accordance with Chapter 21 of Title XI of the D.C. Code. In addition to the duties, powers and responsibilities set forth in the Chapter 21 of Title XI, a specific Probate Division Court rule authorizes and in fact instructs the Register of Wills to review all *ex-parte* matters and to make recommendations to a Probate Division Judge as to whether or not proposed orders should be signed as submitted. This review process entails the Register or one of her deputies reviewing the requests for *ex-parte* relief and providing a written recommendation to the Court for that purpose. The written recommendations become part of the court file.

While not a statutorily defined duty, the Register of Wills, by virtue of existing Court rules is obligated to advise the Court of any irregularity perceived in connection with the administration of decedent's estates, guardianships of minors or conservatorships and

guardianships of incapacitated adults. These irregularities can run the gamut of failing to file statutorily mandated or rule-mandated Inventories or Accounts and/or failure to comply with audit requests made of the staff of the Register of Wills.

The current Register of Wills, the Honorable Constance Starks, has held that position, I believe, since 1988. Since that time there have been no less that 4 significant, far reaching, and sweeping changes to the guardianship/conservatorship statute or the administration of decedent's estates statutes and, as recently as 2003, a version of the Uniform Trust Act has been adopted by the District of Columbia. All of these statutory changes have required substantial revision to the rules and administrative undertakings that govern and guide the practitioners and general public in this area of the law. The amount of work done by the Register of Wills and her staff, as well as the organized Bar and the Bench, in adopting rules and procedures consistent with the statutory changes has been remarkable. I think it's important to note that all of these changes were implemented without an ostensible hitch or disruption in the administration of decedent's estates or conservatorships or guardianships. Specifically, the four statutory changes to which I refer, included the *Guardianship, Protective Proceedings, and Durable Power of Attorney Revision Amendment Act of 1989, the Probate Reform Act of 1994, The Omnibus Trusts and Estates Amendment Act of 200 and, most recently, the Uniform Trust Code Act of 2003.* It is not the purpose of this hearing or my testimony to articulate the nuances or the good or bad points of these statutes. I mention them only so that the Committee gets an understanding of how administratively the Office of the Register of Wills positively coped or dealt with the changes in procedure and administration due to the changes in the statutes. I hasten to add that in approximately the same period of time, the staff of the Register of Wills Office was reduced from 86 in the late 1980s to a current number of less than 50.

<u>The Washington Post 2003 Expose</u>

I think everyone here at this hearing this morning will agree that the articles that appeared in the Washington Post in June of 2003 were not the best days for the Superior Court of the District of Columbia. The Washington Post reporters did an extensive study of estate, guardianship and conservatorship proceedings that had been instituted within the Probate Division in the last 8-10 years. I am morally certain that the survey of available cases during that time exceeded 20,000 (decedent's estate filings average, on an annual basis, 2,350 to 2,500 cases; guardianship and conservatorship proceedings are probably half that number). In the two days of the Post article, they highlighted no less than ten cases where egregious conduct went unchecked, where misfeasance and nonfeasance were not challenged and, in one case, outright theft by a Personal Representative of a decedent's estate was in the hundreds of thousands of dollars. I hasten to add, as to that just mentioned example of theft by a Personal Representative (not a lawyer) there was absolutely nothing the Register of Wills Office or the Court could have done to prevent that theft. The estate was operating under statutorily mandated "unsupervised administration" and, until a complaint was filed by an Interested Person, there was no way the theft could have been detected or prevented. Nonetheless, I believe the stories were a wakeup call. It was a wakeup call for the Register of Wills Office; it was a wakeup call for the Court; and it was a wakeup call to the Bar. The Chief Judge, I presume in consultation with the presiding Judges of the Probate Division, immediately took steps to deal with the perceived pattern of conduct that allowed these irregularities and abuses to be visited upon the citizens of the District of Columbia. The Chief Judge's Administrative Order forthrightly spoke to the

practicing bar in unequivocal terms that we must do better, we have rules to be observed, we have deadlines to be met, and failure to do that in the future will in fact have consequences.

Relationship Between Register of Wills Office on the One Hand and the Bar and the Public on the Other

In the weeks and months since the Washington Post articles and the famous administrative order issued by the Chief Judge immediately following those articles, there have been rumors and grumblings by the organized Bar about the draconian nature of Chief Judge King's order and the Register of Wills role in implementation of that order. Chief Judge King properly perceived a problem within the Probate Division and, I presume in consultation with the presiding Judges of that Division, entered the Order had to be implemented. I would respectfully suggest to this Committee to the extent that it has an interest in this dynamic, the grumblings had more to do with "shooting the messenger", the implementer than anything substantive. In the passage of time, the administrative order has been amended on two different occasions. While I am not fully certain, I believe these amendments have addressed the articulated and, maybe in some instances, legitimate concerns of members of the Bar without diluting the message that comes through loud and clear from Chief Judge King's Order. Filings will be made timely, irregularities will be dealt with directly and those fiduciaries abusing their responsibilities will be dealt with appropriately.

Courthouse lore allows anecdotal stories to take on lives of their own. The stories sometimes become bigger than life. Rather than rely on such stories to determine the level of discourse and handling of issues or problems brought to the Register of Wills Office by the Bar and the public, I for one believe that empirical data is a better gage to see how that dynamic is going. This past February, Court personnel (not from the Register of Wills Office) conducted a

survey of the users of the Register of Wills Office over a specific three-day period. There was no attempt to single out a particular group or groups of users. Seventy-five percent of the people who came through the Office of the Register of Wills as "users" during the three-day period completed the survey. It has been publicly announced that ninety percent of those users "agreed or strongly agreed that service (from the Register of Wills Office personnel) was courteous and responsive." Ninety-five percent responded that they have received the assistance they were seeking within ten minutes of entering the office. Ninety-six percent of those responding reported that the visit to the Register of Wills Office was a "positive experience". That is a pretty strong indication that the Office and its employees are doing the job they have been asked to do.

I also recognize, and I am sure this Committee does as well, that that kind of result is only achieved through continuing positive supervision and training. It is my understanding that both are an ongoing process of the Court in general and in the Probate Division in particular.

In conclusion Mr. Chairman, I commend your Committee and its members for its desire to make sure the Superior Court and its various divisions continue to provide outstanding service in the administration of Justice to the citizens of the District of Columbia. In that role, I urge you to continue to encourage and yes, even prod, the Executive Branch of the District of Columbia Government to provide resources necessary to continue this work and to enhance the services to be afforded to the Citizens of the District of Columbia. I thank you for your time and will take any questions that you may want to present.

Chairman TOM DAVIS. Let me just start where you left off, Mr. Curtin, and for you, Mr. Ward. Looking back at the Post article, it notes that in half of the 783 long-term guardianships initiated between 1995 and 2000, caretakers filed no reports for 18 months or more, missing their deadlines by at least a year. According to the Post review of records, that is in half of the cases. In 170 of those cases, no reports were filed within 3 years, and 127 or about one-sixth of the cases the guardians never reported back after they were appointed. That is the fault certainly of the guardians, but also of the court in terms of its oversight.

Now, my question is this to both of you: Do you think the court is adequately exercising its power to sanction lawyers and fiduciaries in appropriate cases?

Mr. CURTIN. Your Honor, I do think—Mr. Chairman, I do think——

Chairman TOM DAVIS. I am not an honorable. That is apparent.

Mr. CURTIN. I heard you wanted to a judge. You told us you wanted to be a judge.

But, Mr. Chairman, I believe that the court does have adequate ability to sanction a lawyer now. I think the—again, I don't know—I didn't study each case that they looked at, but I would dare say that a number of those cases where people didn't report properly or timely to the court, they were late folks, and the court really has no sanction except to remove that fiduciary as a fiduciary. They can't put them in jail. They are not going to hold them in contempt. What they will do is eventually remove that PR——

Chairman TOM DAVIS. Couldn't they order them to report back by a certain time; if they don't, then you are in contempt?

Mr. CURTIN. Yes, they could. And, in fact, that has happened where they have these summary hearings when they bring them in and they say—they give them an excuse, and then they will tell them to come back. But to my knowledge, there has only been one case where a fiduciary was held in contempt. I have to say to you that the court of appeals reversed that trial court's decision.

Chairman TOM DAVIS. I guess the problem is that once this stuff gets out of hand, the word gets out, and then nobody obeys it. So it starts at the top.

Mr. CURTIN. I think that was the problem that hopefully Judge King's administrative order is going to address. When it involves a lawyer, I can assure you that those notices of—that you are in default, you are in irregularity, are going to be met with dispatch, because the sanction now of referral to bar counsel almost as an automatic is a heavy hammer that works.

Chairman TOM DAVIS. Mr. Ward, do you have any comments?

Mr. WARD. I would like to suggest to you, however, that in those cases, if the reports had been timely filed, the ward would still have suffered, because nobody reads the reports. And there is nobody who is competent to read the report. And the reports were written by the Rules Committee, by lawyers who don't know too much about social work. So the questions that are asked on the reports aren't necessarily the cleverest questions.

Chairman TOM DAVIS. But let me ask you this. The reports are also sent to interested persons, not just the court. Doesn't that sometimes generate——

Mr. WARD. Well, if there are interested persons, but sometimes there aren't.

Mr. CURTIN. The answer is yes, they are sent to interested persons, but—they are required to be sent to interested persons. Yes.

Chairman TOM DAVIS. If they are sent anywhere, they are filed.

Ms. DAHLMAN. If I might add?

Chairman TOM DAVIS. Sure.

Ms. DAHLMAN. I file these petitions on a regular basis. I do not get these reports. I get these reports if the ward has a lot of money. I have probably received maybe one or two reports from guardians that have filed their reports in the past 5 years.

Chairman TOM DAVIS. How many should you have received?

Ms. DAHLMAN. Pardon?

Chairman TOM DAVIS. How many do you think you should have received?

Ms. DAHLMAN. I think I should have received all of them.

Chairman TOM DAVIS. Which is how many?

Ms. DAHLMAN. I probably file about 30 a year.

Chairman TOM DAVIS. OK. Mr. Ward, do you think the court is exercising its powers to sanction lawyers and fiduciaries in appropriate cases?

Mr. WARD. I think it is doing it inappropriately. There have been several references to counsel, bar counsel, but have been dismissed by bar counsel because the decisions were flat wrong and against the rules, and they are up in the court of appeals now. The court has the ability to do it, but they use it sometimes with a heavy hand.

Chairman TOM DAVIS. Let me move to Ms. Ashby. What action has the family court implemented to improve working relationships between the CFSA, social workers and the family court judges?

Ms. ASHBY. Well, as both Judge King and Judge Satterfield reported, at the highest levels of both organizations there are meetings, both on day-to-day operations and on longer-term projects and goals.

The difficulty that we stated in our statement, and also in our earlier report, was that when you start talking to the social workers and some of the judges and magistrate judges themselves, in the practical day to day to day, how do we work together in resolving a particular case, there are problems. From a social worker's point of view, the problems stem from the judges not respecting their ability to make decisions about well-being, safety of children. Sometimes there are critical issues at hand. Judges sometimes make rulings that the social workers don't think it appropriate.

On the other side, from a judge's perspective, they get frustrated because it takes a long time to get things done. Sometimes services aren't provided if there is not a court order. So a court order is issued.

There are a lot of the day-to-day frustrations and inefficiencies that need to be worked out, but certainly at the top level, there are lots of opportunities for meetings and attending training together and conversation and communication.

Chairman TOM DAVIS. Well, the family court has improved the percent of cases that comply with that ASFA permanency hearing

requirement. What do you think is needed to further improve their ability to fully meet this requirement?

Ms. ASHBY. Well, maybe this is a good opportunity for me to address the discrepancy in numbers. There are probably a number of factors that account for the difference in the percentages that we reported and those that the court are reporting.

First of all, the definition of what the requisite period is at issue, I believe. On page 3 of our testimony statement, we list the ASFA requirement with respect to permanency, and we say that a permanency hearing must be held within 12 months of a child's entry into foster care. Entry into foster care is defined based on the earliest of two dates. One is the date of the first judicial finding, and the other is the date that is 60 days after the child has been removed from his or her home, if removal occurs.

It appears that the court is simply taking the second part of that definition, and that is where the 425 days comes from, a year, 12 months, plus 60 days, based on information that we have regarding when the first adjudication hearing occurs, and that time is decreasing—it has increased more than 80 percent in the last 2 or 3 years. It would seem that there certainly must be many cases where the earlier date is the date of that first judicial finding, and that seems to be ignored.

Also, the dates—actually the information we used came from the Council for Court Excellence. And we selected those numbers as opposed to the court's, because those numbers were based on a case file review. And during that case file review, one of the things that became evident was that sometimes permanency hearings are held, but all of the requirements of those hearings are not met.

A permanency hearing is supposed to result in two things: A goal for the permanent placement of the child, which can be reunification, adoption, something else; and a date by which this is to occur. Quite often there is the goal but no date by which it is to occur. So it is questionable about whether these types of proceedings actually constitute permanency hearings. There are slight timing differences, and that might account for some of the difference, but it will not account for the total difference in our numbers.

As was said, the Council for Court Excellence is going to come out with new numbers very soon, and we look forward to seeing how they compute those numbers and what they are.

Chairman TOM DAVIS. Thank you.

Mr. Hall, what measures would you recommend for the Probate Division to implement to ensure competency on the part of court-appointed guardians and conservators?

Mr. HALL. The appointment of counsel has played a big role so far since the publication of those articles in the Post in making sure that competent counsel are appointed. What we have pointed out is making certain that you cap the numbers of guardianship or conservatorship cases that are assigned to an attorney over a period of time.

I think you mentioned during the course of the hearing today that some counsel have had a number of cases far exceeding their capabilities in dealing with them, and capping those numbers will be——

Chairman TOM DAVIS. So it is a burden issue as much as a competency issue?

Mr. HALL. Absolutely.

Chairman TOM DAVIS. You think that would probably be the most straightforward——

Mr. HALL. I think the judge mentioned in the last panel that they are going through these alphabetical listings of assigning, but there will be some cases with some complexities that some lawyers with backgrounds in these particular areas will be more capable of handling.

Chairman TOM DAVIS. Is thought given, do you think, as those appointments are made in terms of matching it up with attorneys of competence?

Mr. HALL. Well, obviously they have avoided that now, answer to these criticisms, because they are going through in alphabetical order. That, of course, means there are going to be various levels of competency for everyone if you use a purely alphabetical system.

Chairman TOM DAVIS. Right.

Mr. HALL. In most cases if you stay with a category of lawyers that are expert in a certain area, of course you are going to get the kind of problems that we had before. How you correct that is going to be interesting.

Chairman TOM DAVIS. Let me ask Ms. Dahlman. I think she has noted that there are 700 voluntary National Guardianship Foundation-certified guardians, but none practice in the District.

Ms. DAHLMAN. Yes. There are none that are certified in the District. That is correct.

Chairman TOM DAVIS. Why do you think that is? What good does it do you, right?

Ms. DAHLMAN. Because it is not required.

Chairman TOM DAVIS. Not required. Doesn't do you any good. You don't get any bang for it, right?

Ms. DAHLMAN. No extra kudos for that. It is not required, and people aren't going to do it. If it is not required, you are not going to do it. I will give the court credit in these cases. They don't always stay by that list. We will look.

Chairman TOM DAVIS. If they get a complex case, they are going to look for an attorney that can handle it.

Ms. DAHLMAN. They will look for that attorney. But these are attorneys, they are not social workers, so we look for the attorney that can deal with the mental health issues. You know, but it is difficult, because these are attorneys. They are not social workers.

Chairman TOM DAVIS. We don't know every attorney. You have a long list.

Ms. DAHLMAN. Exactly.

Bear in mind that we should start public guardian programs, because then we would have people that would be trained specifically in those areas of these very difficult cases.

Chairman TOM DAVIS. I could go on all day with questions. You have been a great panel. I appreciate it. I am going to yield to Ms. Norton for some questions.

Ms. NORTON. Thank you, Mr. Chairman. I have just a few questions.

I am confused about this notion of guardians who are members of family, and guardians who are lawyers, and I would like the opinion of each of you about this. I don't know if having a guardian who is a member of the family or friend is, for example, less expensive than having a lawyer. That would be something I would be interested in. But my main interest is whether one necessarily gets better service from a nonlawyer.

You know, we start with the notion that if there is an available family member, and many of these cases necessarily involve knowing something not only about the particular issue before you, but knowing something about how other areas of the law may, in fact, be affected.

A lawyer is subject to the total control of the court. He can lose his license. He can be sanctioned in ways that affect him professionally. I am not convinced that an amateur, simply because the person is close, is the best guardian, but I don't know.

And I don't know whether there should be a presumption, one way or the other, nor am I convinced that simply to send somebody to a training session makes him somehow a fully qualified guardian of the kind of lawyer he is. The lawyer can't tell me, hey, look, I know about tax, therefore I took this matter for that reason; but I don't have any understanding of mental health law, so please don't hold me accountable. Where it seems to me that to require, in this complicated system, a lay person to have that kind of understanding may be in its own way risky.

I would like to hear your opinion as to whether or not this simply ought to be judged not whether or not you are a friend who looks like you are intelligent, or you are a lawyer who looks like you know the area, but whether or not this simply ought to be done on a highly individualized basis with no presumption one way or the other.

Mr. CURTIN. Congresswoman Norton, I would like to respond by saying that, first of all, the current statutory framework provides that if the individual who now is incapacitated has, in fact, designated, as an example, in a power of attorney that he would want or she would want——

Ms. NORTON. Well, that is out of the court's hands then.

Let's talk about where the court has to decide whether it is a person who is a family friend; you know, there is no indication in a will, there is no indication by a document, and somebody has to decide whether it is going to be a friend who has been close over the years, or whether it is going to be a relative, or whether it is going to be a lawyer.

Mr. CURTIN. It is not an uncommon thing in the superior court for the judge to designate a family friend or a family member to be guardian of the person and then appoint a lawyer to be guardian of the property, having a different role. The guardian of property would be managing the money. The guardian of the person would, in fact, make the personal health decisions for that individual.

And the judges I have seen have struggled with that issue and dealt with it in that way, so that there is some reasonable assurance that the money would be handled properly, but the medical decisions and the personal decisions for the incapacitated ward

would be made by a family member or close personal friend. And that is the best of both worlds.

Ms. NORTON. So you think that might be the best combination?

Mr. CURTIN. Yes, I do.

Ms. NORTON. Do the rest of you agree?

Mr. WARD. We should also consider the way this gets to the court. The Intervention Act considered an adversarial proceeding where we have the zealous advocate representing the subject who is supposed to respond to the petition and represent the interests of the putative ward. If this is done properly, if there is a problem about the person who is seeking to become the guardian, that is usually ferreted out.

Typically we have a situation in this area where we have multiple siblings, only one or two of whom are here, and the others are in California, so one of them gets the fiduciary appointment. Then the mother dies, and the one from California comes back and says, where is my inheritance? So in the process of getting these people appointed, and if it is done properly, the court will take a neutral person if the family is feuding, but if it is not, and the counsel for the subject doesn't see the problem, then doing it as Mr. Curtin suggested is a very logical way to do it.

Mr. HALL. You know, from a perception point of view, I have to point out that the Washington Post observed that the determination that the court takes to appoint a guardian or a conservator takes around 10 minutes. To the public—that may seem an inadequate amount of time for a court to make an important determination as to the nature of a person's life. But when it comes to the question of whether the person appointed should be counsel or family member, I have seen it work, in my experience, in both ways, if the person is able and gives attention to the issue. And it could very well be a family member who has the background and the education to understand what has to be done, and they do it in a conscientious manner.

Ms. NORTON. Well, thank you, Mr. Hall. This notion about the 10 minutes in the Washington Post the court takes strong exception to, because it indicated to our staff that there may be such cases, but that nobody can know how much each takes.

But that many hearings require less time. I don't know enough about this area of the law to know whether or not there are some things that can be disposed of that easily or not. Do any of you have any feel on that?

Mr. CURTIN. Your Honor, I would say that I am sure the Washington Post reporters that wrote that sat in the courtroom and saw one hearing take 10 minutes. I have been in that courtroom on numerous and diverse occasions where a conservatorship hearing or guardianship hearing would take three-quarters of a day. It would take parts of 2 days. But I have no doubt that they did witness one or two or maybe a dozen hearings where it took 10 minutes.

Ms. NORTON. It could be the lawyer who is a relative, for example, you know. So I don't assign anything to anecdotal evidence. I am far too statistical.

Ms. DAHLMAN. I can tell you that it is not uncommon. It is not uncommon. Many of my hearings are very short.

Ms. NORTON. Well, you think that the cursory—the time of the hearing is of no concern to me. I would have to know all of the background to know whether that was true.

Ms. DAHLMAN. If you have an examiner who has a visitor, you don't—the court-appointed counsel, the guardian ad litem, there is a clear case of incapacity.

As Mr. Curtin said, on the other hand, especially if you are dealing—that is when you are dealing with dementia, Alzheimer's and situations like that. When you are dealing with mental illness, it takes on another——

Chairman TOM DAVIS. Let my ask this. I guess my question, the followup to that is have you watched courtroom proceedings where it has taken 10 minutes and it probably should have taken a lot longer? That is the point.

Mr. WARD. Well, these articles were written before the court of appeals decided the Orshanky case in which the court of appeals admonished the superior court that if the statute says the subject is supposed to be present at the hearing, and unless there is a good reason not to—routinely the counsels waived the presence of the subjects at the hearing. There were a lot of procedural steps that—where the court was taking shortcuts where the court of appeals said you shouldn't do that. So I think that the hearings now would take a little bit longer than at the time those articles were written.

Ms. NORTON. It is an important point to make.

Mr. Chairman, I have only one more question, and that is: I was concerned, Ms. Ashby, part of your report, page 14, procedural impediments to adoption. This committee has put considerable interest on priority on adoption, the need to complete administrative requirements associated with placing children with adopted families in locations other than the District. That is something we heard about CSFA some time ago, insufficient guardian or adoption subsidies. Is this a District government problem——

Ms. ASHBY. Well, it is——

Ms. NORTON [continuing]. Or a CSFA problem?

Ms. ASHBY. It is a national problem, certainly not unique.

Ms. NORTON. But you said administrative requirements. I am concerned about administrative——

Ms. ASHBY. The difficulties with interjurisdictional agreements involving——

Ms. NORTON. But then there was a new agreement.

Ms. ASHBY. There was an agreement with Maryland. I don't know the specifics of it, but, as I understand, there was some difficulty with that. I also understand that the effort—current effort is to place children within the District of Columbia as opposed to Maryland or Virginia, and I again don't know what is behind that. We are currently doing work under the appropriation—the 2004 D.C. Appropriation Act, a mandated study, looking at CFSA, and part of what we are doing is looking at its recruitment and retention of adoptive and foster care homes. So we are in the process of getting more data on that.

The procedural difficulties have to do with the difficulties with interjurisdictional agreements, and at the essence of that are the home studies that are required, and which jurisdictions is the home

study done in, who does it? Is the home study done by one jurisdiction accepted by another, and so forth? These are national issues.

I forgot the second part of it.

Ms. NORTON. You've answered my question, if you are doing a study of the interjurisdictional agreements. And I would hope that study will include why—I don't care where these children are placed, frankly. I think they have to be placed in the best home.

I think today you are probably less likely to find that best home in the District of Columbia. We have lost so many people. We have a disproportionate number of very poor people. So I would be interested in any preference as to where the child is placed as opposed to the best placement for the child.

And with that, Mr. Chairman, that is my last question.

Chairman TOM DAVIS. You have been a very patient panel. You have been a very good panel. We very much appreciate your testimony. Your entire testimony is part of the record.

Anything anybody want to add after all of this that maybe you didn't get in?

Ms. ASHBY. I failed to actually answer one of your questions. You asked what else the family court could do in terms of increasing permanency. I will just briefly cite several things that we did cover in our statement.

One has to do, of course, with the availability of substance abuse treatment—and that has been talked about—and other services that families need in order to bring about reunification. That is not something that the court can do per se, but it is something that needs to be done in order to allow for faster permanency determinations.

Also, with respect to the court, we have been told by judges that additional support staff are needed to help with the processing of cases and entering information into the computer system and so forth. The court is looking into its human capital needs and has not made a determination whether it is true or not at this point.

The computer system that is supposed to allow the court to communicate with other agencies within the District that influence the safety and well-being of children, it is an ongoing effort. There has been progress, particularly between the court and CFSA, and the court and the Corporation Counsel, but still there are other agencies that need to be brought on board.

And I guess finally, this again is more CFSA than it is the court, but there seems to be a shortage of social workers, and there is high turnover among social workers, which makes it difficult if a social worker leaves and someone else takes over the case, they don't necessarily know all that has happened with that case.

We have reported in the past problems with the computer system within CFSA and how not all information is recorded and so forth.

So it is a number of things that need to be dealt with. Some the court can control, some it can't. But the court, CFSA, and other organizations within the District working together should be able to improve things.

Ms. NORTON. Mr. Chairman, Mr. Waxman has asked that a written statement by admitted into the record.

Chairman TOM DAVIS. Without objection, so ordered.

Again, thank you very much for being here. Thank you for your testimony. The committee stands adjourned.

[Whereupon, at 12:40 p.m., the committee was adjourned.]

[The prepared statement of Hon. Henry A. Waxman follows:]

Opening Statement of Rep. Henry A. Waxman
Committee on Government Reform
Hearing on
District of Columbia Superior Court
April 23, 2004

Mr. Chairman, thank you for holding this hearing. It is important that we review the Superior Court of the District of Columbia, in particular, the family court and the probate division.

There are certain basic tenets that are needed in a successful child welfare system. For example, we all believe that children should be protected from abuse and neglect and that they should have permanency and stability in their living situations.

The D.C. child welfare system's success depends on its Child and Family Services Agency (CFSA) and its Family Court. Therefore, both must be working efficiently and effectively to protect the best interests of the children in the District.

In 2001, Congress passed the District of Columbia Family Court Act. That law sought to have one Court dedicated to the children and families of the District. It is my understanding that since the Family Court Act passed, the backlog of cases has dropped and management has improved. However, more work needs to be done.

Included in the Family Court Act is the requirement of one family--one judge. I am particularly interested in hearing how that requirement has been followed. It is important for a family to stand before the same judge each time that family is required to be in Family Court. Otherwise, continuity and accountability can be compromised. If a family sees multiple judges, it is difficult for the Court to apply "holistic insight" to that family's case.

Although not directly the topic of this hearing, consistency should also be achieved at CFSA if possible. It is important for a family to have the same CFSA caseworker throughout its interactions with the child welfare system. I would be interested in hearing if such is the case.

In addition to the Family Court, the Probate Division of the Superior Court also deserves attention. We were all deeply troubled last year by the reports of neglect and abuse of the elderly, mentally ill, and indigent of the District. The very guardians appointed to protect this vulnerable class of citizens were the perpetrators.

Since June 2003, the Probate Court has taken steps to address this serious problem such as requiring training and background checks for

guardians. I am hopeful to hear that the proper protections have been put into place so such instances will not happen again.

I look forward to the testimony from our distinguished witnesses on the important matters at hand: the Family Court and Probate Division of the D.C. Superior Court. Thank you.